

**HIGH COURT OF CHHATTISGARH, BILASPUR****Second Appeal No. 378 of 2004**

Bhagat, S/o Late Langdi, aged 45 years, Caste-Uraon, Occupation Service & agriculture, r/o village Nayapara, P.S. & Tehsil Sitapur, Distt. Surguja (C.G.)

**----Appellant/plaintiff**

**Versus**

1. Mst. Tilabai, wd/o Late Langdi, age 70 years, Caste-Uraon.

2. Rameshwar, S/o Late Langdi, age 50 years, Caste-Uraon.

Both r/o village Nawapara, P.S. & Tehsil Sitapur, District Surguja, C.G.

3. The State of Chhattisgarh, through Collector, Surguja, Ambikapur (C.G.)

**---- Respondents/defendants**

For Appellant : Shri A.K. Prasad, Advocate  
For Respondent No.3/State : Shri Avinash Singh, Panel Lawyer.

**Hon'ble Shri Justice Sanjay K. Agrawal**

**Order On Board**

**11/09/2018**

1. This is plaintiff's Second Appeal filed under Section 100 of CPC against the judgment and decree dated 29.4.2004, passed by 1<sup>st</sup> Additional District Judge, Ambikapur, District Surguja, in Civil Appeal No. 19-A/2003 partly affirming the judgment and decree dated 29.7.2003 passed by IInd Additional Civil Judge, Class-I, Ambikapur, Distt. Surguja in Civil Suit No. 179-A/.

2. The plaintiff, appellant herein, filed a civil suit for declaration of title that he is entitled for ½ share in the suit land described in Schedule "C" attached with the plaint.

3. The trial dismissed the suit holding that the plaintiff is not entitled for the decree of declaration of title; and further held that defendant No. 2 is the title holder over the suit land described in Schedule "A" & "B" attached with the plaint; and the counter claim filed by defendant No. 1 was also dismissed.

4. On appeal being preferred by the plaintiff. The first Appellate Court, by its impugned judgment & decree dated 29.04.2004, partly decreed the suit filed by the plaintiff holding that he is title holder of the land described in Schedule "A" attached with the plaint to the extent of  $\frac{1}{2}$  share in it and the property is ancestral property but declined to grant share in lands described in Schedule "B" & "C" of the plaint holding land described in schedule "B" attached to the plaint is the self acquired property of defendant No. 1 whereas the land described in schedule "C" attached to the plaint is the self acquired property of defendant No. 2.

5. I have heard learned counsel appearing for the appellants and perused the records of both the courts below with utmost circumspection.

6. The first appellate Court has clearly recorded a finding that the plaintiff is title holder of the land described in Schedule "A" attached with the plaint to the extent of  $\frac{1}{2}$  share in it and held him not entitled for the lands described in Schedule "B" & "C" attached with the plaint as land described in schedule "B" attached to the plaint is the self acquired property of defendant No. 1 whereas the land described in schedule "C" attached to the plaint is the self acquired property of defendant No. 2. The said finding recorded by the first appellate Court is the finding of fact based on material available on record and I do not find it either perverse or contrary to record and no question of law much less substantial question of law is involved in this appeal.

7. Thus, the second appeal being devoid of merit is liable to be and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)  
Judge

D/-

