

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Second Appeal No.573 of 2003**

Awadh Ram S/o Shobha Ram Kurmi, aged about 57 years, Occupation Cultivation, R/o Vill. Kandaee, Tah. Bemetara, Distt.Durg (CG)

----Appellant**Versus**

1. Indra Kunwar Bai W/o Basant Kurmi, aged about 65 years, Occupation cultivation, R/o Vill. Ninwa, Tehsil Bemetara, District Durg (CG)
 2. The State of Madhya Pradesh (Now State of Chhattisgarh) Through Collector, Durg, Tehsil and District Durg (CG)
 3. The Naib Tehsildar, Bemetara, District Durg (CG)
 - 4(a) Raj Kumar S/o Gurdayal Singh Saluja, aged about 30 years
 - b) Prakash Saluja S/o Gurdayal Singh Saluja, aged about 18 years
 - c) Ku. Madhu D/o Gurdayal Singh Saluja, aged about 20 years
 - d) Ku. Ritu Saluja D/o Gurdayal Singh, aged about 15 years, minor
 - e) Ku. Nitu Saluja D/o Gurdayal Singh Saluja, aged about 12 years, Both minors through natural guardian Smt. Seema Saluja Wd/o Gurdayal Singh Saluja
 - f) Smt.Seema Saluja Wd/o Gurdayal Singh Saluja, aged about 40 years
- All r/o Village Panjibipara Bemetara, Tehsil Bemetara, Distt. Durg (CG)
5. Gurubaksh Singh S/o Prem Singh aged about 27 years, Occupation General Marchent, R/o Bemetara, Teh. Bemetara, Distt. Durg (CG)

---- Respondents

For Appellant	:	Mr.Bharat Rajput, Advocate
For State	:	Avinash Singh, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

05/09/2018

1. The plaintiff filed a suit for declaration of his title and declaration that the order passed by the competent authority under the Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 (hereinafter called as 'the Act of 1960') is not binding on

defendant No.1-Indra Kunwar Bai and defendants No.4 and 5 and he is title holder of the land purchased by registered sale deed dated 14.7.80. Written statement has been filed by the defendants. The trial Court framed preliminary issue whether the land in dispute has vested in the State under the provisions of the Act of 1960 and decided the preliminary issue holding that the land in dispute has already been vested with the State Government under the provisions of the Act of 1960 by order dated 22.2.1979. Revision preferred by original holder/defendant No.1 against that order has already been dismissed by the Board of Revenue, as such, the order of Board of Revenue affirming the order of vesting the land in the State become final and suit is barred under Section 46 of the Act of 1960, which was assailed in first appeal, which has also been dismissed, against which, this second appeal under Section 100 of the Code of Civil Procedure has been preferred.

2. Learned counsel for the appellant would submit that without recording evidence of the plaintiff, suit was dismissed, therefore, substantial question of law is involved for determination of this second appeal.
3. I have heard learned counsel for the parties and perused the records of the Courts below.
4. While deciding the preliminary issue, the trial Court has clearly reached to the conclusion that the land in dispute has already been vested with the State Government under the provisions of the Act of 1960 by order dated 22.2.79 and revision preferred by original holder/defendant No.1 has already been dismissed by the

Board of Revenue on 22.7.82 and the appellant is subsequent purchaser, therefore, he has no right or title over the suit property under the Act of 1960, which has been affirmed by the Board of Revenue. Even otherness, sale or purchase after vesting the land with the State is not permissible and land has been vested in the State by virtue of the provisions contained in Section 12 of the Act of 1960 and by virtue of the provisions contained in Section 13 of the Act of 1960, consequence of vesting all rights, title and interests of the holder in the surplus land or of any person having interest in such land through him shall cease.

5. Thus, concurrent finding recorded by two Courts below holding that suit land has been vested with the State Government is finding of fact and by virtue of the provisions contained in Section 12 and 13 of the Act of 1960, the plaintiff being purchaser from original holder whose land was vested with the State Government has also ceased as he has no right, title and interest over the suit property in view of the provisions contained in Section 12 and 13 of the Act of 1960.
6. I do not find any substantial question of law in this second appeal. The second appeal deserves to be and is hereby dismissed. No cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-