

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 198 of 2006**

Smt. Sirmitia Dev @ Sugwa Devi, aged about 55 years, W/o Satya Narayan Koir (Kuchwaha) Occupation – Agriculturist R/o Village Kotrahi, Tahsil Pal Wadrafnagar, Distt. Sarguja (C.G.)

----Appellant/Plaintiff

Versus

1. Eshwar Prasad, S/o Late Jaishree Kuchwaha, Aged about 40 years, Occupation – Documents writer and Agriculturist, R/o Village Kotrahi Tahsil Pal, Distt. Sarguja (C.G.)
2. Smt. Satyabhawani @ Satyabhawani, S/o Sitaram Koir, Aged 44 years, R/o Village Kotrahi, Tahsil Pal, Wadrafnagar, Distt. Sarguja (C.G.)
3. State of Chhattisgarh, Through Collector, Ambikapur, Distt. Sarguja (C.G.)
4. Sub-Divisional Officer (R) Wadrafnagar, Tahsil Wadrafnagar, Distt. Sarguja (C.G.)
5. District Registrar, Ambikapur, Distt. Sarguja (C.G.)

----Respondents/defendants.

For Appellant	:	Mr. D. N. Prajapati, Advocate.
For Respondents No. 3 to 5	:	Mr. Arun Sao, Deputy Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

12/11/2018

Heard on the question of admission.

(1) The plaintiff's suit for declaration of title, and for declaring the order dated 13th May, 2002 passed by respondent No. 3- Collector cancelling the lease granted in favour of defendant No. 2 as null and void has been dismissed by the trial Court and that has been affirmed by the first appellate Court.

(2) Learned counsel appearing for the appellant/plaintiff would submit that both the courts below are absolutely unjustified in dismissing the suit filed by the plaintiff on perverse ground as the plaintiff has purchased the suit property by registered sale deed dated 28.01.1998 from defendant No. 2 and the lease has been cancelled by the Collector by order dated 13.05.2002 without hearing the appellant/plaintiff and, as such, appeal involves substantial question of law for determination.

(3) I have heard learned counsel appearing for the appellant and perused the impugned judgment and decree including record of both the courts below with utmost circumspection.

(4) The patta was granted in favour of defendant No. 2- Smt. Satyabhawani @ Satyabhawani by order dated 15.07.1977 and which has been declared illegal and contrary to Section 165 (7-kha) of the Chhattisgarh Land Revenue Code, 1959 (henceforth "Code, 1959") by the Collector / competent authority, against which civil suit as above-stated was filed by the plaintiff as he is purchaser from defendant No. 2.

(5) Both the courts below have concurrently held that the patta granted in favour of defendant No.2 was forged and illegal. Order of the Collector dated 13th May, 2002 in which the patta was granted in favour of defendant No. 2 has been cancelled, that has not been expressly challenged by the plaintiff seeking cancellation of the order passed by the Collector dated 13th May, 2002 in the suit and even the order dated 13th May, 2002 has not been proved by exhibiting that document, as such, the lease granted in favour of defendant No. 2 has been held to be in violation of Section 165(1-kha) of the Code, 1959, the said finding recorded by both the courts below are 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.

(6) Accordingly, the second appeal, being devoid of merit, is liable to be and is hereby dismissed in *limine*.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

