

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 40 of 2004**

Bharat Lal, aged 45 years, S/o Sukhcharan , by caste Chandra, resident of village Bansula, Tehsil Champa, District Janjgir-Champa (C.G.)

----Appellant/Defendant No.1.

Versus

1. Anita Kumari, aged 37 years, Wd/o Late Badri Prasad, by Caste Chandra, r/o village Bansula, Tehsil Champa, District Janjgir Champa (C.G.) (Plaintiff)
2. Dhuluram, aged 65 years, S/o Ram Dayal by caste Kurmi, resident of Semariya, Tehsil Champa, District Janjgir Champa.
3. Jethu, S/o not known by caste Marar, R/o Karnoud, Tehsil Champa, Distt. Janjgir-Champa (C.G.)
4. Dinesh Kumar, aged 32 years, S/o Sukhcharan, R/o Bansula, Teh. Champa.
5. Kanak, aged 34 years, S/o Sukhcharan,
6. Kavara Bai, aged 37 years, D/o Sukhcharan.

(Serial No. 5 resident of Chourbhati, Teh. Sakti and Sl. No. 6, resident of Bhutaha, Tehsil Malkharoda, District Janjgir Champa).
7. The State of Chhattisgarh, thorough Collector, Janjgir Champa.

----Respondents

For Appellant : Mr. Rajbahadur Singh, Advocate.
For Respondent No.7/State : Mrs. Astha Shukla, PL for the State.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

05/10/2018

(1) This is defendant's No.1 Second Appeal filed under Section 100 of CPC against the judgment and decree dated 19th December, 2003 passed by 4th Additional District Judge (Fast Track Court), Janjgir, in Civil Appeal No. 18-A/2002 affirming the judgment and decree dated 18.01.1999 passed by First Civil Judge, Class-II, Janjgir, in Civil Suit

No. 262-A/91, decreeing the suit in plaintiff's favour.

(2) The respondent No.1/plaintiff filed a suit for declaration of title and possession over the suit land.

(3) The trial Court decreed suit in plaintiff's favour holding that plaintiff is entitled for $\frac{1}{4}$ th share in the suit property excluding Khasra No. 458/1 & 466/5. First appeal preferred thereagainst by the defendants was also dismissed affirming the judgment and decree of the trial Court. Hence, this second appeal.

(4) Learned counsel appearing for the appellant/defendant No. 1 would submit the both the courts below have concurrently erred in decreeing the suit in favour of the plaintiff and that give rise a substantial question of law for determination in this appeal.

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

(6) The trial Court has clearly recorded a finding that the plaintiff is successor of late Badri Prasad and is entitled for $\frac{1}{4}$ th share in the suit property excluding Khasra No. 458/1 & 466/5, which has been affirmed by the first appellate Court. Thus, concurrent finding recorded by both the courts below that plaintiff to be the owner of $\frac{1}{4}$ th share in the suit property excluding Khasra No. 458/1 and 466/5 is a 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) Accordingly, the second appeal, being devoid of merit, is liable to be and is hereby dismissed in *limine*.

Sd/-

(Sanjay K. Agrawal)
Judge

