

**HIGH COURT OF CHHATTISGARH, BILASPUR****Second Appeal No. 648 of 2017**

1. Jagdish, son of Chabil Verma, aged about 50 years, Occupation Agriculturist, resident of Village Putpura, Sub Tehsil Nandghat, Tehsil Nawagarh, District Bemetara (C.G.)
2. Smt. Milapabai, widow of Manglu, Occupation Agriculturist, at present resident of Lohdangiya, Post Office Narayanpur, Sub Tehsil Nandghat, Tehsil Nawagarh, District Bemetara, Chhattisgarh
3. Rajendra, son of Manglu, aged about 22 years,
4. Rahibai, widow of Manglu, aged about 42 years,
5. Jageshwar, son of Manglu, aged about 20 years,
6. Sarojni, daughter of Manglu, aged about 14 years

Appellant No. 6 is being minor through her natural guardian Mother Rahibai, widow of Manglu

Appellant Nos. 2 to 6 are resident of Village Putpura, Tehsil Nawagarh, District Bemetara, Chhattisgarh

**Lrs of Manglu**

7. Godawaribai, widow of Manglu, aged about 44 years, Occupation Agriculturist
8. Naresh, son of Manglu, aged about 32 years, Occupation Agriculturist

Appellant Nos. 7 and 8 are resident of Village Medki, Tehsil Nawagarh, District Bemetara, Chhattisgarh

**Lrs of Manglu**

**---- Appellants/defendants**

**Versus**

1. Bundeliya Bai, wife of Bodhram Verma, aged about 54 years, Caste Kurmi, Occupation Agriculturist, resident of Village Murkutta (Seoni), Tehsil Nawagarh, District Bemetara, Chhattisgarh
2. The State of Chhattisgarh, Through: Collector Bemetara, District Bemetara, Chhattisgarh

----Respondents/Plaintiffs.

For Appellants : Mr. R.K. Pali, Advocate.  
For Respondents : Mr. Aditya Sharma, Panel Lawyer.

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

**Order On Board**

**20/08/2018**

Heard on admission.

(1) This is defendants' Second Appeal under Section 100 of the Code of Civil Procedure (for short 'the CPC') against the judgment and decree dated 27.09.2017 passed by Additional District Judge, Bemetara in Civil Appeal No. 13-A/2015, affirming the judgment and decree dated 22.09.2015 passed by Civil Judge, Class-II, Bemetara in Civil Suit No. 34-A/2014, decreeing the suit.

[For sake of convenience, the parties would be referred hereinafter as per their status before the trial Court]

(2) Respondent No.1/plaintiff filed a suit for declaration of title, partition and separate possession stating inter alia that she has 1/3 rd share in the suit property. That has been decreed by the trial court in plaintiff's favour.

(3) The defendants preferred first appeal thereagainst. The first appellate court, after re-appreciating the entire evidence adduced in the case, affirmed the judgment and decree passed by the trial court, leading to filing of this Second Appeal under Section 100 of the Code of Civil Procedure.

(4) Mr. R.K. Pali, learned counsel appearing for the appellants/defendants would submit the concurrent findings recorded by both the courts below are perverse and

contrary to the record and, therefore, impugned judgment & decree is liable to be set aside.

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

(6) The concurrent findings recorded by both the courts below holding that plaintiff has 1/3rd share in the suit property and she is entitled for partition and separate possession 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) Thus appeal deserves to be and accordingly dismissed at admission stage itself. No order as to costs.

Sd/-  
(Sanjay K. Agrawal)  
Judge

D/-

