

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**S.A No.96 of 2018**

1. Mohan Lal S/o Guha Ram Aged About 64 Years Caste Sarname Aadile, R/o Village And Post Basin, Tahsil Malkharoda, District Janjgir-Champa, Chhattisgarh, District : Janjgir-Champa, Chhattisgarh
2. Basin Ram S/o Guha Ram Aged About 58 Years Caste Sarname Aadile, R/o Village And Post Basin, Tahsil Malkharoda, District Janjgir-Champa, Chhattisgarh, District : Janjgir-Champa, Chhattisgarh
3. Dhanau Ram S/o Guha Ram Aged About 49 Years Caste Sarname Aadile, R/o Village And Post Basin, Tahsil Malkharoda, District Janjgir-Champa, Chhattisgarh (Plaintiffs), District : Janjgir-Champa, Chhattisgarh

---- Appellant

Versus

Seikh Diljar Mohammad S/o Sekh Bahar Mohammad Aged About 40 Years
R/o Village Basin, Tahsil Malkharoda, District Janjgir-Champa,
Chhattisgarh (Defendants), District : Janjgir-Champa, Chhattisgarh

-----Respondent

For Appellant:	Shri Somnath Verma, Advocate.
For Responden:	None.

Single Bench: Hon'ble Shri Sanjay Agrawal, J
Order On Board

04.07.2018

1. This Appeal has been preferred by the Plaintiffs under Section 100 of the Code of Civil Procedure, 1908 (for short 'the CPC') against the judgment and decree dated 10.11.2017 passed by the 2nd Additional District Judge, Sakti, District Janjgir-Champa in Civil Appeal No.09-A/2017 by which, the lower appellate Court, while affirming the judgment and decree dated 22.12.2016 passed by the Civil Judge, Class-2, Malkharoda, District Janjgir-Champa in Civil Suit No.161-A/2009, has dismissed the Appeal.

2. Briefly stated, the facts of the case are that the Plaintiffs instituted a suit claiming injunction by submitting *inter alia* that they purchased 0.20 acres of land of Khasra No.422/3 admeasuring 0.27 ares. It is pleaded further that after obtaining the property as such, the revenue papers were recorded in their names and at the time of mutation, it was re-numbered as 422/9 admeasuring 0.20 acres. According to the Plaintiffs, the Defendant is claiming his interest over the said property and based on this, he had initiated the proceedings under Section 250 of the Chhattisgarh Land Revenue Code, 1959. The said proceeding was registered and Revenue Case No.5/A-70/2002-03 and the Tahsildar, vide order dated 07.10.2003, had passed an order in his favour which was affirmed further in an Appeal preferred by the Plaintiffs. It is pleaded further that since the right, title and interest as acquired by them in the year 1983 was interfered by the Defendant, therefore, the Plaintiffs have been constrained in filing the suit in the instant nature.

3. The Defendant has contested the aforesaid claim and pleaded that the Plaintiffs are not the owners of the property in question, therefore, their suit is liable to be dismissed.

4. The trial Court, after considering the evidence led by the parties, has come to the conclusion that the Plaintiffs have failed to produce any document showing their ownership over the suit land. As a consequence of it, the trial Court has dismissed the suit.

5. The aforesaid finding of the trial Court has been affirmed further by the lower appellate Court in an Appeal preferred by the Plaintiffs. The appellate Court has also observed that the Plaintiffs have not produced any document showing their ownership with regard to the property in

question. In consequence, the lower appellate Court, while affirming the judgment and decree of the trial Court, has dismissed the Plaintiff's suit.

6. Being aggrieved, the Plaintiffs have preferred this Appeal. Shri Somnath Verma, learned Counsel for the Appellants submits that the judgment and decree as passed by the Courts below is apparently contrary to law. He submits further that the Plaintiffs have raised a construction over the suit land since the date of its purchase and without considering the said fact in its proper manner and that by ignoring the revenue papers in this regard, the Courts below have committed an illegality in dismissing the Plaintiffs' claim.

7. I have heard learned Counsel for the Appellants and perused the entire record carefully.

8. The Plaintiffs have instituted a suit claiming injunction on the ground that they purchased the property from one Toliram in the year 1983 and since then, they are enjoying the suit property while raising a construction over it. In order to obtain injunction based upon these facts, the Plaintiffs are required to establish the fact that they have acquired valid right, title and interest over the suit property. However, no document as such, much less the registered deed of sale, as alleged by them was even produced. In absence of any such document, the Courts below have not committed any illegality in arriving to a conclusion that the Plaintiffs have failed to prove that they have acquired any interest over the property in question and as a consequence of it, the Courts below have rightly refused their claim for injunction.

9. The findings so recorded by the Court below are pure findings of fact based upon due and proper appreciation of the evidence adduced by

the parties and therefore, the same deserve to be and are hereby affirmed.

10. In view of the foregoing discussions, I do not find any question of law, much less the substantial questions of law which arise for determination in this Appeal. Accordingly, the Appeal being devoid of merits is hereby dismissed at the admission stage itself. There shall be no order as to costs.

Sd/-
(Sanjay Agrawal)
JUDGE

Priya