

HIGH COURT OF CHHATTISGARH, BILASPUR**SECOND APPEAL No. 63 of 2004**

1. Anandram, S/o Sahdev Sahu, aged about 65 years, Occupation – Farmer, R/o Village Kolihapuri, P.H. No. 32, Lal Bhadur Nagar, Tahsil Dongargarh, District Rajnandgaon (C.G.)

---- Appellant / plaintiff**Versus**

1. Atmaram S/o Sahdev Sahu, aged about 62 years, R/o Village Kolihapuri, P.H. No. 32, Lal Bhadur Nagar, Tahsil – Dongargarh, District Rajnandgaon (C.G.)
2. State of Chhattisgarh, through Collector, Rajnandgaon (C.G.)

---- Respondent/ Defendant

For Appellant	:	Shri Anup Majumdar, Advocate.
For Respondent No. 1/State	:	Shri Arun Sao, Dy. A. G.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****24/10/18**

1. This second appeal under Section 100 of the Code of Civil Procedure, 1908 has been filed by the appellant / plaintiff whereby the First Appellate Court has affirmed the judgment and decree passed by the trial Court dismissing the suit.
2. Shri Anup Majumdar, learned counsel appearing for the appellant submits that the concurrent finding recorded by the two Courts below are perverse and contrary to law and it gives rise to substantial questions of law for determination.
3. I have heard learned counsel for the appellant, considered his submissions and went through the records with utmost circumspection.

4. The plaintiff and defendant No. 1 both are the brothers. Plaintiff's elder brother filed a suit on the basis of unequal partition stating *inter-alia*, that he is entitled for equal partition shown in Schedule A & B and the declaration and possession be granted to him.
5. The trial Court has held that the suit property has been partitioned orally and plaintiff and defendant No. 1 both are in possession of their respective share pursuant to that partition which has been affirmed by the First Appellate Court. Both the Courts below have concurrently held that the oral partition having been effected between the parties and parties are in possession of their respective suit land pursuant to that oral partition and even the plaintiff has accepted it before the Tahsildar and has also sold its share to Latkhor and Jailal. As such, the concurrent finding recorded by the two Courts below are the findings of fact based on evidence available on record. I do not find any illegality or perversity much less for determination of substantial question of law in this second appeal.
6. Accordingly, the second appeal is dismissed *in limine* without issuing notice to the other side. No cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge