

HIGH COURT OF CHHATTISGARH, BILASPUR**SECOND APPEAL No. 275 of 2005**

1. Smt. Binda Bai W/o Gopal Sahu, aged about 55 years, R/o Village Bhanpur, Tahsil and District Dhamtari (C.G.)
2. Gopal Sahu, S/o Itwari Sahu (Dead) through LRs -
 - (a) Khamhan Lal, aged about 42 years, S/o Late Gopal, R/o Village Bhanpur, Tahsil and District Dhamtari (C.G.)
 - (b) Makhkhan Lal, aged about 38 years, S/o Late Gopal, R/o Village Bhanpur, Tahsil and District Dhamtari (C.G.)
 - (c) Munna @ Ramkumar, aged about 35 years, S/o Late Gopal, R/o Village Bhanpur, Tahsil and District Dhamtari (C.G.)
 - (d) Bilesh Kumar, aged about 30 years, S/o Late Gopal, R/o Village Bhanpur, Tahsil and District Dhamtari (C.G.)

---- Appellants / Defendants**Versus**

1. Smt. Brijbai W/o Late Aajulal Sahu, aged about 50 years, Tahsil and District Dhamtari (C.G.)
2. State of Chhattisgarh, through Collector, Dhamtari, District Dhamtari (C.G.)

---- Respondents / Plaintiffs

For Appellants	:	Mr. A. D. Kuldeep, Advocate.
For Respondent No. 1	:	Mr. Amit Kumar Sahu, Advocate.
For Respondent No. 2 / State	:	Mr. Arun Sao, Dy. A. G.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****27/09/18**

1. This is defendants' second appeal under Section 100 of the CPC questioning the judgment and decree passed by the First Appellate Court whereby and whereunder the said Court has affirmed the judgment and decree of the trial Court granting decree for specific performance of contract in favour of plaintiff No. 1.

2. Learned counsel for the appellants / defendants submits that the concurrent finding recorded by the two Courts below granting decree in favour of the plaintiff are based on perverse ground and contrary to law and it involves substantial question of law for determination.

3. The respondent No. 1/ plaintiff Smt. Brijbai filed a suit for specific performance of contract against the defendants that agreement to sell was executed by the defendants on 28.06.1991 and delivered the possession to sell the suit land at the rate of Rs.38000/- per acre and obtained Rs.16000/- from the plaintiff but failed to execute the sale deed leading to filing of the suit for specific performance of the contract. In the said suit, the defendant denied the execution of agreement to sell and contested the suit.

4. The trial Court after appreciating the oral and documentary evidence on record came to the specific conclusion that an agreement of sale was entered into between the parties on 28.06.1991 for sale of the suit land for Rs. 26,600/- and defendants obtained Rs.16000/- from the plaintiff and the plaintiff is ready and willing to perform her part of contract and is entitled for the decree of specific performance of contract which was upheld by the First Appellate Court.

5. The two Courts below have concurrently held that the defendants executed agreement to sell in favour of plaintiff and plaintiff is ready and willing to perform her part of contract. The finding recorded by the two Courts below is a finding of fact based on evidence available on record. As such, I do not find any perversity or illegality much less for determination of substantial question of law in this second appeal.

5. Accordingly, the second appeal deserves to be and is hereby dismissed with no order as to cost(s). A decree be drawn up accordingly.

Sd/-

(Sanjay K. Agrawal)
Judge