

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**SA No. 769 of 2017**

1. Reeta Tiwari, Wd/o Late Murari Prasad Tiwari, Aged About 55 Years R/o Moolsorid Nagar, Dhamtari, Tahsil And District Dhamtari, Chhattisgarh,
2. Neetu Tiwari D/o Late Murari Prasad Tiwari, Aged About 35 Years R/o Moolsorid Nagar, Dhamtari, Tahsil And District Dhamtari, Chhattisgarh,
3. Neelam Tiwari D/o Late Murari Prasad Tiwari, Aged About 35 Years R/o Moolsorid Nagar, Dhamtari, Tahsil And District Dhamtari, Chhattisgarh,
4. Prakash Tiwari S/o Late Kashiprasad Tiwari, Aged About 44 Years R/o Manjhapara, Kanker, Police Station And Tahsil Kanker, District North Bastar Kanker, Chhattisgarh,
5. Prakhar Tiwari S/o Late Kashiprasad Tiwari, Aged About 34 Years R/o Manjhapara, Kanker, Police Station And Tahsil Kanker, District North Bastar Kanker, Chhattisgarh,
6. Durga Tiwari Wd/o Late Kashiprasad Tiwari, Aged About 70 Years R/o Manjhapara, Kanker, Police Station And Tahsil Kanker, District North Bastar Kanker, ChhattisgarhPlaintiffs

Kashiprasad Tiwari S/o Ganesh Prasad Tiwari Since Died His Legal Representatives Appellant No. 4 To 6 Are Already On Record.

Murariprasad Tiwari S/o Late Kashiprasad Tiwari Since Died His Legal Representatives Appellant No. 1 To 3 Are Already On Record,

---- Appellants**Versus**

- State Of Chhattisgarh Through Collector Kanker, District North Bastar Kanker, ChhattisgarhDefendant,

---- Respondent

For Appellant	:Shri Manoj Paranjpe with Shri Vikram Dixit, Advocate
For Respondent/State	:Shri V.B.Singh, P.L.

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****08.08.2018**

1. This is the plaintiffs' Second Appeal preferred under Section 100 of the

Code of Civil Procedure, 1908 (hereinafter referred to as the Code of 1908) against judgment and decree dated 22.08.2017 passed by the Additional District Judge, Kanker, Dist. North Bastar Kanker (C.G.) in Civil Appeal No. 42-A/2014, by which, the lower appellate Court, while affirming the judgment and decree dated 20.08.2014 passed by the 2nd Civil Judge Class-1, North Bastar Kaner, in Civil Suit No. 79-A/2013, has dismissed the appeal.

2. Briefly stated the facts of the case are that the plaintiff Kashi Prasad (since deceased now represented by his legal representatives) instituted a suit claiming declaration of title and injunction in respect of the land in question bearing Kh.No.10/2, Sheet No. 12D, admeasuring 819 sq.mtr./8815 square feet, which is situated at Bhoipara, Kanker. It is pleaded in the plaint that the ancestors of the plaintiff were the owners of the said land and the house constructed thereon and it has come in his share in a family partition which was effected in the year 1969 and since then he is in possession over the suit land. It is pleaded further that without providing any opportunity of hearing the suit property was recorded as Nazul Land by the defendant, and therefore, the plaintiff has been constrained in filing the suit in the instant nature.

3. The defendant has contested the aforesaid claim and stated that the plaintiff's predecessors-in-interest were never the owners of the property in question, and therefore, the suit as framed deserves to be dismissed. It was pleaded further that in the estate time, the Nazul Bhoomi was the property of the Government and since the lease deed was not renewed, and therefore, for violation of the terms and conditions stipulated therein, the land in question was recorded in the name of the Government.

4. The trial Court, after considering the evidence led by the parties, has dismissed the suit by holding, inter alia, that the plaintiff has failed to establish his ownership over the land in question and observed further that merely recording of

the name in revenue papers would not confer any right, title or interest upon him. 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 plaintiff under Section 96 of the Code of 1908.

6. Being aggrieved, the plaintiff has preferred this appeal. Shri Manoj Paranjpe, learned counsel for the appellants submits that the judgment and decree as passed by the Courts below are apparently contrary to law. He submits that plaintiff's predecessors-in-interest were in possession over the property in question, therefore, the plaintiff was entitled to be declared as owner of the property in question. He submits further that without considering the evidence led by the parties in its proper perspective, particularly, the deed of Bandobast Khasra (Ex.P.1), the Courts below have committed an illegality in dismissing his claim for declaration of title and injunction.

7. I have heard learned counsel for the appellant and perused the entire record carefully.

8. The main contention of the plaintiff while claiming the relief as such was that his predecessors-in-interest were the owners of the property in question. In order to establish the said fact, the plaintiff has produced a revenue paper, i.e., Bandobast Khasra (Ex.P.1) for the year 1946-47. However, a bare perusal of the said document would show that it was not recorded as his ownership. It only shows his possession along with his brothers in relation to the property in question. Even otherwise, it is settled position of law that revenue papers would not confer any right, title or interest, unless and until the deed of title is produced. Therefore, no reliance could be placed upon the said document. In absence of any documentary evidence, much less, the document showing his ownership, the

Courts below have not committed any illegality in holding that the plaintiff is not the owner of the property in question, and therefore, would not be entitled to get the relief of injunction also. The findings so recorded are based upon due and proper appreciation of the evidence led by the parties, and therefore, deserve to be and are hereby affirmed.

9. In view of the foregoing discussion, I do not find any question of law, much less, the substantial questions of law, which arise for determination in this appeal. The appeal, being devoid of merit, is liable to be and is accordingly dismissed at admission stage itself. No order as to costs.

Sd/-
(Sanjay Agrawal)
Judge