

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**First Appeal No. 81 of 2013**

1. Sunil Kumar S/o. Balram, Aged about 24 years, Caste Sahu,
2. Kumari Vimla Sahu, D/o. Balram, Aged about 28 years, Caste Sahu,
3. Seems Sahu D/o. Balram, Aged about 26 years, Caste Sahu,
4. Kumari Nirmala Sahu D/o. Balram, Aged about 21 years, Caste Sahu,
5. Smt. Nonibai W/o. Balram, Aged about 55 years, Caste Sahu,

All resident of village Godhana, Tahsil Nawagarh, District Janjgir Champa (C.G.)

---- APPELLANTS/Plaintiffs**Versus**

1. Balram S/o. Sunhar, Aged about 57 years, R/o. Village Godhana, Tahsil Nawagarh, District Janjgir Champa (C.G.)
2. State of Chhattisgarh Through Collector, District Janjgir Champa (C.G.)

---- RESPONDENT/Defendants

For the Appellants	:- Mr. Vinod Deshmukh, Advocate
For the Respondent	:- Mr. Anand Dadariya, Govt. Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Hon'ble Smt. Justice Vimla Singh Kapoor,****Order on Board By****Prashant Kumar Mishra, J.**

01.11.2018

1. Plaintiffs suit for declaration of title and permanent injunction over the land bearing khasra Nos. 191/2 area 0.55 acres, 1313/1 area 0.02 acres, 1314/1 area 0.01 acres, 1315/1 area 0.01 acres, 1316/1 area 0/02 acres and khasra No. 1316/2 area 0.02 acres, total admeasuring 0.61 acres situated at village Godhna, P.H. No. 16, RI circle and Tahsil Nawagarh District Janjgir Champa has been dismissed by the trial Court on the ground of non-joinder of necessary party.
2. The plaintiffs are sons, daughter and wife of defendant No.1 Balram who jointly succeed ancestral property with his brother Bhagatram, both being sons of Sunhar S/o. Nanki. According to the plaintiffs, in due course Bhagat and Balram partitioned the property in the year 2010 and their names were separately recorded, thereafter, Bhagatram has separately recorded his name in the revenue record. It is further pleaded that defendant No.1 Balram, the father of plaintiff Nos. 1 to 4 and husband of plaintiff No.5 is likely to dispose of the suit land to deprive the plaintiffs of their rights.
3. Balram remained ex-parte before the trial Court yet the suit has been dismissed for the reason that Bhagatram has not been joined in the suit.
4. The appellants have moved applications under Order 41 Rule 27 CPC to produce khasra papers of the suit land to demonstrate that Balram has succeed the suit land, however, the khasra numbers of the land which fell in the share of Balram is different than the suit land described in schedule A with the plaint.

5. Perusal of another khasra papers available in the paper book at page No. 49 marked as document E would disclose that the suit land in fact belongs to Bhagatram. Since the khasra numbers of the land mentioned in the documents filed along with the applications under Order 41 Rule 27 CPC is different than the suit land described in the schedule A with the plaint, the applications deserves to be and is hereby dismissed. It appears, by mentioning khasra numbers which has fallen in the share of Bhagatram, the plaintiffs are trying to obtain a decree in respect of land belonging to Bhagatram without joining him in the suit. It is precisely for the reason, defendant Balram did not appear in the suit so that it becomes easier for the plaintiffs to obtain a decree in relation to schedule A land which in fact belongs to Bhagatram.
6. The trial Court has rightly dismissed the suit. No case for interference is made out. Appeal is therefore, dismissed.

Sd/-

(Prashant Kumar Mishra)
JUDGE

Sd/-

(Vimla Singh Kapoor)
JUDGE