

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**SA No. 643 of 2017**

- Sarju S/o Ganpat Satnami, Aged About 55 Years R/o Village Singhanpuri, Tehsil And District Bemetara, Chhattisgarh.....Defendant No. 1,

---- Appellant**Versus**

1. Ramnarayan S/o Palturam Aged About 56 Years Caste Teli, Occupation Agriculturist, Resident Of Village Devri, Post Office Andhiyarkhoor, Tehsil Nawagarh, District Bemetara, Chhattisgarh.
2. Goverdhan, S/o Latel Satnami, Aged About 48 Years Occupation Agriculturist, Resident Of Village Chakapendra, Tehsil Nawagarh, District Bemetara, Chhattisgarh.
3. The State Of Chhattisgarh. Through Collector Bemetara, District Bemetara, Chhattisgarh.....Plaintiffs,

---- Respondents

For Appellant	:Shri Raj Kumar Pali, Advocate
For Respondent No.1	:Shri Viprasen Agrawal, Advocate
For Respondent No.3/State	:Shri Aditya Sharma, P.L.

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****27.07.2018**

1. This appeal has been preferred by defendant No.1 Sarjuram under Section 100 of the Code of Civil Procedure, 1908 (hereinafter referred to as the Code of 1908) against judgment and decree dated 05.09.2017 passed by the District Judge, Bemetara, Dist. Bemetara (C.G.) in Civil Appeal No. 01-A/2015, by which, the lower appellate Court, while affirming the judgment and decree dated 08.12.2014 passed by the Civil Judge Class-1, Bemetara, in Civil Suit No. 3-A/2012, has dismissed the appeal.

2. Briefly stated the facts of the case are that the plaintiff Ramnarayan

instituted a suit claiming declaration of title and injunction submitting, inter alia, that by virtue of the registered deed of sale dated 17.01.2008 (Ex.P.4) he acquired valid right, title and interest over the suit property from one Goverdhan, defendant No.2. It is pleaded in the plaint that after acquiring the interest as such, revenue papers were mutated in his name. It is pleaded further that defendant No.1 Sarjuram, without any authority, has obtained the revenue papers mutated, after setting aside the mutation order dated 20.03.2006, which was passed in the name of his vendor, i.e., defendant No.2 in Revenue Appeal No. 40-A-6/2009-10, and in connivance with the Revenue Authorities, has also succeeded in setting aside his name from the revenue papers, which were recorded in his name vide order 13.03.2012 on the basis of the said registered deed of sale. It is pleaded further that after obtaining the revenue papers mutated in his name, started interfering in his peaceful possession, therefore, he has been constrained to file the suit in the instant nature, instituted on 12.06.2012.

3. Defendant No.1 Sarjuram contested the aforesaid claim and stated that the suit property was originally held jointly by Mana, Sudhe and Budhe and in an oral partition, the suit property came in share of Sudhe, who in turn has gifted the suit property orally to his niece, namely, Ganpat and, after death of said Ganpat, he (defendant No.1), being his son, inherited the property and was continuously cultivating the property in question for over more than 12 years and has thus acquired his right by way of adverse possession. Based on this factual aspect, defendant No.1 has denied the valid right, title and interest of the plaintiff.

4. The trial Court, after considering the evidence led by the parties and in absence of any document showing acquisition or interest of Sarju's father Ganpat, decreed the suit by holding that the plaintiff has acquired his valid right, title and interest over the suit property by virtue of the registered deed of sale dated 17.01.2008 (Ex.P.4) and obtained the revenue papers mutated in his name

accordingly. The plaintiff's suit was thus decreed, which has been affirmed further by the lower appellate Court in an appeal preferred by defendant No.1 Sarjuram.

5. Being aggrieved, defendant No.1 Sarjuram has preferred this appeal. Shri Raj Kumar Pali, learned counsel for the appellant submits that the judgment and decree as passed by the Courts below holding that the plaintiff has acquired his valid right, title and interest on the basis of the registered deed of sale is apparently contrary to law. He submits further that since the property has already been given to defendant No.1's father Ganpat by Sudhe, therefore, Goverdhan (defendant No.2), being the son of Latel, was not at all competent to execute the said registered deed of sale (Ex.P.4). He, therefore, submits that the judgment and decree as passed by the Court below deserves to be set aside.

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

7. The plaintiff has instituted a suit claiming declaration of title and injunction on the basis of the registered deed of sale dated 17.01.2008 (Ex.P.4), purported to have been executed in his favour by defendant No.2 Goverdhan, the son of Latel. Perusal of the record would show that the property was originally held jointly by Mana, Sudhe and Budhe, who all were the real brothers. Undisputedly, Sudhe and Budhe have expired issueless while Mana had a son Latel, who inherited the property in question after their death. It is also not in dispute that after the death of Latel, his son Goverdhan alone had acquired the suit property by way of inheritance and was thus competent to execute the alleged registered deed of sale in favour of the plaintiff. Authenticity of the said sale was questioned by defendant No.1 on a plea that his father Ganpat had obtained the property orally from his maternal uncle Sudhe, however, defendant No.1 has failed to produce any cogent and reliable evidence, so as to hold that his father Ganpat had acquired any interest over the suit property. As a consequent of it, defendant

No.1 (Sarjuram) cannot claim that he inherited the same by way of inheritance.

8. The Courts below, after considering the oral as well as documentary evidence, have rightly come to the conclusion that the plaintiff Ramnarayan has acquired his valid right, title and interest over the suit property by virtue of the said registered deed of sale executed on 17.01.2008 (Ex.P.4). The findings have been arrived at upon due and proper appreciation of the evidence led by the parties, and therefore, I do not find any infirmity in the judgment and decree of the Courts below.

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