

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 140 of 2004**

1. Smt. Ramhin Bai, aged about 57 years, daughter of Shri Mehttar Satnami.
2. Smt. Ahilya Bai, aged about 42 years, daughter of Shri Shivprasad Satnami.
3. Shri Nand Kumar, aged about 27 years, son of Shri Shivprasad Satnami.
4. Shri Kartik Ram, aged about 34 years, son of Shri Shivprasad Satnami.

All are resident of Gram Aasonda, Post Ganiyari, Tahsil Tilda, District Raipur (C.G.)

----Appellants/Plaintiffs

Versus

1. Santu Satnami, aged about 57 years, son of Shri Baran Satnami, resident of Gram Aasonda, P.O. Sankri, Tahsil Arang, District Raipur (C.G.)
2. State of Chhattisgarh, through the Collector, Raipur (C.G.)

---- Respondents/Defendants.

For Appellants : Shri Manay Nath Thakur, Advocate.
For Respondent No.2/State : Shri Sanjay Kumar Agrawal, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

13/02/2019

1. This is plaintiffs' second appeal under Section 100 of Code of Civil Procedure, 1908. Plaintiffs' suit for declaration of title and for declaring the sale deed executed in favour of defendant No.1 to be null and void was dismissed by the trial court and on appeal being preferred, it was affirmed by the first appellate court.
2. Learned counsel for the appellants/plaintiffs would submit that both the courts below are absolutely unjustified in dismissing the suit filed by the plaintiffs by recording findings which are perverse and contrary to the records, as such, appeal involves substantial question of law for determination.

3. I have heard the learned counsel for appellants/plaintiffs on question of admission stage and considered his submission and went through the record with utmost circumspection.

4. Plaintiffs filed a suit for declaration of title stating that they are title holder of suit land; and sale deed dated 10.09.1996 executed by Devmati Bai in favour of defendant No.1 is null and void and does not confer any right, title or interest over the suit property. The trial court dismissed suit of the plaintiffs holding that Devmati Bai was not the concubine of Dashru Satnami and she has rightly sold the suit property in favour of defendant No.1. On appeal being preferred though the first appellate court set aside the finding of trial court *quo* issue No. 5 and 6 but dismissed the appeal. Learned counsel for the plaintiffs has mainly contended that Devmati Bai was not legally married wife of Dashru Satnami and, therefore, she was not entitled to alienate the suit property. Both the courts have concurrently held that Devmati Bai was married with Dashru Satnami in *Churi* form and therefore she was entitled to alienate the suit property, the said finding of marriage of Dashru Satnami with Fulmat Bai has been recorded concurrently by two courts below which is a finding of fact based on evidence available on record which is neither perverse nor contrary to record

5. I do not find any substantial question of law for determination, second appeal deserves to and accordingly dismissed *in limine* at admission stage without notice to the other side.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

