

HIGH COURT OF CHHATTISGARH, BILASPUR

Second Appeal No. 162 of 2005

1. Jal Sai, s/o. Bhajan, aged about 45 yrs.,
2. Phoolsai, s/o. Bhajan, aged about 40 yrs.,
3. Hulsai, s/o. Bhajan, aged about 38 yrs.,
4. Sukhsai, s/o. Bhajan, aged about 35 yrs.,
5. Bilsai, s/o. Bhajan, aged about 32 yrs.,

All are agriculturist, caste Gond, r/o. Tildega, Teh. Dharamjaigarh,
Distt. Raigarh, Chhattisgarh

---Appellants
(Defendants)

Versus

1. Shanti Bai, wd./o. late Ram Singh, aged about 45 yrs.
2. Minor Phaldeep, s/o. late Ram Singh, aged about 15 yrs.
3. Minor, Savitri, d/o. late Ram Singh, aged about 10 yrs. -----(Plaintiffs)

Respondents No. 2 & 3 are minors, through their natural guardian-mother, Shanti Bai, wd/o. Late Ram Singh, caste Gond, r/o. Tildega, Teh. Dharamjaigarh, Distt. Raigarh, Chhattisgarh

4. The State of Chhattisgarh, through the District Collector, Distt. Raigarh, Chhattisgarh -----(Defendant No. 6)
---- Respondents

For Appellants/ Defendants	:	Mr. A.N. Bhakta, Advocate
For Respondent Nos. 1 to 3	:	Mr. RajendraTripathi, Advocate
For State/ Respondent No. 4	:	Mr. Priyank Rathi, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

25.07.2019

1. Heard on admission and formulation of substantial question of law for determination in this second appeal preferred by the defendants.

2. Mr. Bhakta, learned Counsel for the appellants/ defendants, would submit that the trial Court as well as the first appellate Court has committed legal error in holding that the defendants have no title over the suit land and they had not perfected their title by way of adverse possession, as such, the appeal involves substantial question of law for determination.

3. I have heard learned counsel for the appellants/defendants, considered his submission made hereinabove and went through the records with utmost circumspection.

4. The three plaintiffs namely, Shanti Bai, Phaldeep & Savitri being the widow, son and daughter of late Shri Ram Singh filed a suit for recovery of possession based on title that the suit land is held by late Shri Ram Singh, they are successor-in-interest of Ram Singh. Some years ago, they had given the land to the defendants on 'Adhiya' and when they claimed back the possession of the same land, the defendants did not gave back the possession and started disputing, leading to the filing of the suit. The trial Court partly decreed the suit holding that there is $\frac{1}{2}$ share of the plaintiffs in the suit property turning down the plea of adverse possession taken by defendant No. 5. The appellants/plaintiffs preferred the first appeal against the judgment and decree partly rejecting their suit and now the first appellate Court has held that the plaintiffs are title-holders of the suit land as, it was held by Bhajan Sai, father of late Shri Ram Singh and after death of Bhajan Sai and Ram Singh and plaintiffs have inherited the property, in which the defendants have no right title over the suit land. The first appellate Court has rightly held upon appreciation of oral and documentary evidence available on record that the defendants are title-holders and inherited the property from late Shri Ram Singh, as it is ancestral property. The defendants have not produced any document to show that they are also title holders of the suit land. Similarly, the plea of adverse possession has already been

rejected by the trial Court, against which the defendants did not file any appeal or cross appeal challenging the said finding, as such, that finding has become final. Thus, I do not find any substantial question of law for determination as the findings are neither perverse nor contrary to the record.

5. Accordingly, the second appeal deserves to be and is hereby dismissed in limine.

Sd/-
(Sanjay K. Agrawal)
Judge