

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 41 of 2007**

1. Mansai, Son of Late Shri Jagesar, aged about 50 years, resident of village Kusmusi, Police Station and Tahsil Surajpur, District Surguja (C.G.)
2. Maniya, D/o Late Shri Jagesar, Wife of Shri Manijar, aged about 45 years, Occupation Agriculture, Resident of Village Sunderpur, Police Station and Tahsil Surajpur, District Surguja (C.G.)

----Appellants/Plaintiffs**Versus**

1. Rajau, son of Late Shri Bullu Panika, aged about 45 years;
2. Bandhu, son of Late Shri Bullu Panika, aged about 42 years;
3. Charki, D/o Late Shri Bullu Panika, aged about 55 years;

All are agriculturist and residents of Village Kusmusi, Tahsil Surajpur, District Surguja (C.G.)

4. State of Chhattisgarh, Through : The Collector, Surguja, Ambikapur (C.G.)

----Respondents/Defendants

For Appellants	: Mr. Atanu Ghosh, Advocate.
For respondents No. 1 to 3	: Ms. Meena Shastri, Advocate.
For Respondent No. 4/ State	: Ms. Shivali Dubey, PL for the State.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****02/09/2019**

(1) Heard on the question of admission and formulation of substantial question of law on this second appeal preferred by the plaintiffs under Section 100 of the Code of Civil Procedure, 1908.

(2) Learned counsel appearing for the appellant/plaintiff would submit that both the courts below are unjustified in not decreeing the suit filed by the plaintiffs on the basis of their adverse possession over the suit land, by recording a finding which is perverse and

contrary to the record and that give rise to substantial question of law for determination.

(3) I have heard learned counsel appearing for the appellants/plaintiffs and considered his submissions with utmost circumspection.

(4) In a suit filed by the plaintiffs based on adverse possession, they pleaded that adverse possession for more than 12 years has ripened into title over the suit land and, therefore, they are entitled for declaration of title over the suit land, which was denied by the defendants stating that the suit land was granted in patta by the competent authority in favour of defendant No. 1 Bolai in Sarguja Survey Settlement and, thereafter, he sold the said land in favour of defendant No. 2- Bullu by registered sale deed dated on 30.06.1989, as such, the suit is barred by limitation.

(5) The trial Court dismissed the suit holding that the plaintiff has failed to establish adverse possession over the suit land as the suit land was granted in patta in survey settlement in favour of defendant No. 1, who in turn sold the same to defendant No. 2, as such, the plaintiff is not in possession over the suit land for more than 12 years preceding the date of suit, as such, the plaintiff has failed to prove adverse possession over the suit land as in the Sarguja settlement, suit land was granted in patta in favour of defendant No.1 and in that view of the matter, the trial Court has dismissed the suit, which was upheld by the first appellate Court finding that plaintiffs have not perfected their title over the suit land by way of adverse possession. The said finding is a finding of fact based on material available on record and I do not find it either perverse or contrary to the record and no question of law much less substantial question of law is involved in this appeal.

(8) Accordingly, the second appeal, being devoid of merit, is liable to be and is hereby dismissed in *limine*.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

