NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Second Appeal No. 570 of 2004

1. Udey Ram (deleted)

2. Shiv Lal, S/o Udey Ram Lodhi, aged about 43 years.

3. Ram Kumar, S/o Udey Ram Lodhi, aged about 39 years,

4. Chotu Ram (since deceased) through LRs:-

4(a) Ashwan, son of late Chotu Ram, aged about 20 years,

4(b) Ajay, son of late Chotu Ram, aged about 19 years,

4(c) Indrani, D/o late Chotu Ram, aged about 18 years,

All are R/o. Village Aamlidih, Kala, Tahsil Khairagarh, District – Rajnandgaon (C.G.)

4(d) Jayanti wife of Virendra, D/o. Late Chotu Ram, aged about 25 years, R/o Villate Pathari, Tahsil Saja, District Bemetara (C.G.)

5. Baghela Ram, S/o Vijay Ram Lodhi, aged about 48 years,

6. Bhagwan Das, S/o Vijay Ram Lodhi, aged about 48 years,

All resident of village Aamlidih- Kala, Tahsil Khairagrh, Distt. Rajnandgaon (C.G.)

----Petitioners/Defendants

Versus

1. Ramadhin (since deceased) through LRs:-

1(a) Purain, W/o Lat Ramadhin, Aged about 70 years,

(b) Harichandra, S/o Ramadhin, Aged about 55 years,

(c) Sumitra Bai, D/o Ramadhin, Aged about 40 years,

(d) Savita Bai, D/o Ramadhin, Aged about 45 years,

(e) Gulabchand, S/o Ramadhin, Aged about 42 years,

All are Resident of village Aamlidihkala, Tahsil Khairagarh, District Rajnandgaon (C.G.)

2. State of Chhattisgarh, through Collector, Rajnandgaon, Distt. Rajnandgaon (C.G.)

---- Respondents/Plaintiffs

For Appellants : Shri Praveen Dhurandhar, Advocate
For Respondents : None as appeal yet not admitted.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

07/03/2019

1. Heard on the question of admission and formulation of substantial question of law in this second appeal preferred by appellants/defendants under Section 100 of the Code of Civil Procedure, 1908.

2. Plaintiff's suit for declaration of title and permanent injunction was decreed by the trial Court and on appeal being preferred, it was upheld by the first appellate Court, against which instant second appeal has been preferred.

3. Learned counsel for the appellants/defendants would submit that both the courts below are concurrently unjustified in holding that the plaintiffs are title holder of the suit land and he is entitled for decree of declaration of title and permanent injunction by recording finding which is perverse and contrary to the record and that give rise to substantial question of law for determination.

4. The trial Court has clearly recorded a finding that original plaintiff has purchased the suit property from one Jayanti Devi by registered sale deed dated 28.7.1977 (Ex.P-2) and came into possession thereof, in which the defendant has no right to interfere with the suit property; and also recorded a finding the defendants have failed to prove the correction deed, and on appeal being preferred by defendants, it has duly been upheld by the first appellate Court. Thus, concurrent finding recorded by both the courts below that plaintiff is title holder of the suit land and the defendant has no right or title over the suit land is a finding of fact based on material available on record and I do not find it either perverse or contrary to record and no question of law much less

substantial question of law is involved in this appeal.

5. Their Lordships of the Supreme Court have held that it is not permissible for the High Court to interfere with the concurrent finding of fact recorded by two courts below unless findings are perverse and contrary to law. {See : **Aftaruddin (dead) represented through Legal representatives *Vs. Ram Krishna Dutta alias Babul Datta and others***[1] & ***Raj Kumari and another Vs. Ravinder Kumar (deceased) through legal representatives & others***[2] }

6. Accordingly, the second appeal, being devoid of merit, is liable to be and is hereby dismissed in *limine* without noticing to the other side.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

1 (2018) 11 SCC 77
2 (2018) 12 SCC 681