

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 597 of 2004**

1. Rajendra Kumar, S/o Bahadul Singh Patel, aged about 39 years,
2. Dilip Kumar, S/o Bahadul Singh Patel, aged about 34 years,
3. Yashoda Bai, widow of Bahadul Singh Patel, aged about 59 years,
4. Hanskumar, S/o Netram Patel, aged about 56 years,
5. Sampatlal, S/o Netram Patel, aged about 48 years,

All R/o village Kirari, Tahsil Dabhara, Distt. Janjgir-Champa (C.G.)

----Appellants/plaintiffs

Versus

1. Narayan, S/o Maheshwar Singh, aged about 32 years,
2. Bilas Kunwar, widow of Maheshwar Singh, aged about 66 years,
3. Gandhawi Bai, widow of Maheshwar Singh, aged about 54 years,

All R/o village Kirari, Tahsil Dabhara, Distt. Janjgir-Champa (C.G.)

4. State of Chhattisgarh, through the Collector, Distt. Janjgir-Champa (C.G.)

---- Respondents

For Appellants	: Mr. Vishnu Kosta, Advocate.
For Respondent No.4 /State	: Mr. Vimlesh Bajapi, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

21/01/2019

(1) This is plaintiffs' Second Appeal under Section 100 of the Code of Civil Procedure (for short 'the CPC') against the judgment and decree dated 10.9.2004 passed by Additional District Judge, Sakti, District Janjgir-Champa in Civil Appeal No. 1-A/2004, affirming the judgment and decree dated 14.11.2003 passed by Civil Judge, Class-II, Shakti in Civil Suit No. 268-A/2002, dismissing the suit for declaration of title and injunction against the defendants.

(2) Learned counsel appearing for the appellants/plaintiffs would submit the concurrent finding recorded by both the courts below suffers from illegality & perversity and that give rise to the substantial question of law for determination.

(3) I have heard learned counsel appearing for the appellants/plaintiffs and perused the record of both the courts below with utmost circumspection.

(4) The suit property was originally belonged to defendant No. 1- Smt. Dharam Kuknwar and in whose favour trial Court has passed the decree on 5.2.1969 declaring her to be the title holder of the suit property, against which appeal, preferred by Netram and others, was dismissed as withdrawn on 10.07.1970. Thereafter, defendant No. 1 – Dharamkunwan is said to have executed an agreement on 14.07.1970 vide Ex. P-3 in favour of Netram and Maheshwar and only on that basis the plaintiffs filed a suit for declaration to tile and injunction.

(5) The trial Court as well as first appellate Court have concurrently held that agreement to sell does not confer any right, title and interest to the successor-in -interest of the plaintiffs Netram & Maheshwar.

(6) Since the agreement to sell does not confer any right, title and interest to the successor-in-interest of the plaintiffs in absence of valid instrument in accordance with the Transfer of Property Act, 1882, therefore, I do not filed any illegality or perversity in the findings recorded by both the courts below being based on material available on record and no question of law much less substantial question of law is involved in this appeal.

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

Sd/-
(Sanjay K. Agrawal)
Judge

