

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 253 of 2005**

1. Rewaram, aged about 65 years, S/o Ram Gulam Kurmi.
2. Radheshyam, aged about 61 years, S/o Janakram.
3. Jaikaran, aged about 64 years, S/o Sewakram Kurmi.
4. Jiwrakhan, aged about 51 years, S/o Sewakram Kurmi.
5. Balram, aged about 48 years, S/o Sewakram Kurmi.
6. Babulal, aged about 53 years, S/o Lalji Kurmi.

All residents of Village Newsa, Tah. & Distt. Bilaspur (C.G.)

----Appellants/plaintiffs

Versus

1. State of Chhattisgarh, Through Collector, Bilaspur (C.G.)
2. Gram Panchayat Newsa, through Sarpanch, Gram Panchayat Newsa, P.O. Jali, Tah. & Distt. Bilaspur (C.G.)

----Respondents/defendants.

For Appellants	: Mr. R.K. Tiwari, Advocate.
For Respondent No. 1/State	: Mr. Vimlesh Bajpai, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

28/01/2019

Heard on admission.

(1) The plaintiffs' suit for declaration of title and permanent injunction over the suit tank and paithu was dismissed by the trial Court holding that the suit tank and *paithu* have been vested with the State Government under Section 251 of the Land Revenue Code, 1959 (henceforth "Code of 1959". On first appeal being preferred, the first appellate Court has also affirmed the judgment and decree of the trial Court, against which instant second appeal has been

preferred.

(2) Learned counsel appearing for the appellants/plaintiffs would submit that both the courts below were unjustified in holding that the suit tank and paithu are vested with the State Government under Section 251 of the Code, 1959 and would rely the judgment of the Supreme Court in **Sub-Divisional Officer, Mandla & others Vs. Parma Gond and another**¹ in support of his submissions.

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

(4) Both the courts below have concurrently recorded a finding that the suit tank has already been vested with the State Government under the provisions of Section 251 of the Code, 1959 by order dated 6.11.1965 passed by Sub Divisional Officer , Bilaspur and that has not been controverted by the plaintiff and the order passed by S.D.O., Bilaspur dated 6.11.1965 vesting the land under Section 251 of the Code with the State Government has not been assailed by the plaintiffs in the suit preferred by them, the said finding has become final and 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 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.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

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