

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**SA No. 130 of 2007**

1. Smt. Premlata, W/o Shivcharan Verma, Aged about 35 years, Occupation Agriculture/House Wife, R/o Joginipali, Tehsil Sarangarh, District Raigarh (CG) (Defendant No.1)
2. Shivcharan Verma, S/o Dashrathi Verma, Caste Agariya, aged about 40 years, R/o Joginipali, Tehsil Sarangarh, District Raigarh (CG) (Defendant No.2)
3. Dashrathi Verma (Defendant No.3) (deleted as per Court Order dated 01.02.2019)
4. Janki Bai @ Jagmati, D/o Dashrathi Verma, Caste : Agariya, Aged about 32 years, R/o Joginipali, Post Dogiripali, Tehsil Sarangarh, District Raigarh (CG) (Defendant No.5)

---- Appellants

Versus

1. Fakhircharan Verma, S/o Dashrathi Vera, Caste Agariya, Aged about 45 years, Occupation Agriculture/Service, R/o Village Joginipali, Post Dogiripali, Tehsil Sarangarh, District Raigarh (CG) (Plaintiff)
2. State of Chhattisgarh, Through Collector, Raigarh, District Raigarh (CG) (Defendant No.4)

---- Respondents

For Appellants	:	Shri H.S.Patel, Advocate
For Respondent No.1	:	Shri Sourabh Sharma, Advocate.
For Respondent No.2	:	Shri Vimlesh Bajpai, G.A.

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****09.04.2019**

1. This appeal has been preferred by the defendants questioning the validity and legality of the judgment and decree dated 08.01.2007 passed by the 2nd Additional District Judge, Raigarh, Camp Court Sarangarh in Civil Appeal No. 23-A/2006, by which, the lower appellate Court, while reversing the judgment and decree dated 16.12.2004 passed by the Civil Judge, Class-2, Sarangarh, in Civil Suit No. 16-A/2002, has decreed the plaintiff's claim entitling him to 1/3rd

(one-third) share with regard to the plaint Schedule-क properties, along with the mesne profits.

2. Briefly stated the facts of the case are that the plaintiff Fakhircharan Verma instituted a suit claiming declaration of title with regard to plaint Schedule-ख properties and praying further that the registered deed of sale dated 14.02.2001 (Ex.P.2) executed by his father Dasharathi, original defendant No.3, in favour of his daughter-in-law, Smt. Premlata, be declared as null and void and in alternative, prayed for partition claiming 1/3rd share (one-third) in relation to the plaint Schedule-क properties.

3. The aforesaid claim has been contested by the defendants and pleaded that defendant No.1 Smt.Premlata has acquired her valid right, title and interest on the strength of the registered deed of sale dated 14.02.2001, purported to have been executed by her father-in-law Dashrathi in her favour.

4. After considering the evidence led by the parties, the trial Court, while upholding the registered deed of sale dated 14.02.2001 (Ex.P.2), has dismissed the plaintiff's claim.

5. Being aggrieved, the plaintiff has preferred an appeal. The lower appellate Court, in turn, while negating the validity of the alleged registered deed of sale executed on 14.02.2001 by said Dashrathi in favour of his daughter-in-law, namely, Smt. Premlata, decreed the suit entitling the plaintiff to 1/3rd share (one-third) with regard to the plaint Schedule-क properties, along with the mesne profits.

6. Aggrieved therewith, the defendants have preferred this appeal. During pendency of this appeal, the parties have arrived at compromise and an application to that effect has been made, marked as I.A.No.03/2018, under Order 23 Rule 3 read with Section 151 of the Code of Civil Procedure, 1908 (for

brevity, the CPC) while annexing deed of compromise which was effected amongst the parties on 15.10.2018. Based upon the said compromise, the parties were directed to appear before the Additional Registrar (Judicial) for recording of their statements. The statements of the parties were accordingly recorded on 01.02.2019 and they have agreed for the terms and conditions stipulated therein and deposed for grant of decree in pursuance of the said compromise, arrived at on 15.10.2018.

7. I have examined the deed of compromise as well as the statements recorded in this regard before the Additional Registrar (Judicial) where all the parties have agreed upon the terms and conditions stipulated in the said deed of compromise. In the said compromise, Smt. Janki Bai (defendant No.5), the daughter of said Dashrathi Verma, has also agreed with regard to the said terms and conditions as stipulated in the said deed of compromise and has deposed specifically that the decree be drawn in pursuance of the said compromise.

8. In view of the aforesaid compromise coupled with the statements of the parties, I am inclined to allow I.A.No.03/2018 filed under Order 23 Rule 3 read with Section 151 of the CPC and accordingly decreed the suit in pursuance of the terms and conditions mentioned in the said deed of compromise made on 15.10.2018 amongst the parties and held that plaintiff Fakhircharan Verma and defendant No.2 Shivcharan Verma shall be entitled to $\frac{1}{2}$ share each with regard to the suit properties described in plaint Schedule-क and the said deed of compromise, dated 15.10.2018 shall be the part of the decree.

9. The appeal is accordingly disposed of. No order as to costs.

10. A decree be drawn accordingly.

Sd/-

(Sanjay Agrawal)
Judge