

HIGH COURT OF CHHATTISGARH, BILASPUR
S.A. No. 393 of 2005

Mahaveer, S/o Late Janiyat Kaushik, aged about 58 years, R/o Village, Dorali (Pas Kadkada), Police Station Lohara, Tahsil, and Distt. Kabeerdham (C.G.).

---- Appellant

Versus

1. Gaukaran, S/o Late Janiyat Kaushik, aged about 55 years, R/o Pendrikhurd, P.H.N. 25, R.I. Circle Dashrangpur. Tah. & Distt. Kabeerdham (C.G.)
2. Mahrin Bai, W/o Lakhan Lal Kaushik, aged about 42 years, R/o Jinda, (Pas Dubha) Tah. Kawardha, Distt. Kabeerdham (C.G.)
3. Vimla Bai, D/o Late Janiyat Kaushik, aged about 39 years, R/o Village Pendrikhurd, Tah. & Distt. Kabeerdham (C.G.)
4. Nirmala Bai, W/o Narayan Kaushik, Aged about 37 Years, R/o Mungeldih, P.S. Kawardha, Tah. Kawardha, District Kabeerdham (C.G.)
5. State of Chhattisgarh, Through- Collector, Kawardha. District- Kabeerdham (C.G.).

---Respondents

For Appellant	:	Mr. Malay Kumar Bhaduri, Advocate.
For State	:	Ms. K Tripti Rao, PL.

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

05.02.2019

1. This is plaintiff's second appeal under Section 100 of the C.P.C. Plaintiff filed a suit for declaration of title and partition and possession of the suit land. The trial Court dismissed the suit while granting the counter claim made by defendant No.3. The First Appellate Court affirmed the judgment and decree of the trial Court leading to filing of second appeal.
2. Learned counsel appearing for the appellant submits that concurrent finding recorded by the two Courts below that partition has taken place between the plaintiff and his brother Gaukaran and his mother

Amrit Bai is a finding of fact which is perverse and contrary to the record.

3. I have heard learned counsel for the appellant/plaintiff and perused the record.
4. The trial Court has clearly recorded finding that after the death of plaintiff's father, partition took place between the parties in which plaintiff got 6.50 acres of the land and defendant No.1 got 7.5 acres of land and their mother got 1.10 acres of land and plaintiff has already alienated his allotted land ie. 6.18 acres of the land, such findings recorded by the trial Court and affirmed by the First Appellate Court are concurrent finding of fact based on the material available on record. The concurrent findings recorded by the two Courts below holding that partition took place between the parties is a finding of fact based on material available on record, in which, I do not find any illegality and perversity and any substantial question of law for determination. Therefore, the second appeal is liable to be and is hereby dismissed. No order as to cost(s).

Sd /-

(Sanjay K. Agrawal)

Judge