

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 146 of 2006**

1. Saleem, S/o Late Shri Bahira Budhu, aged about 82 years,
2. Tirus, S/o Late Shri Bahira Budhu, aged about 76 years.
3. Helariyus, S/o Late Shri Somra, aged about 72 years.

All by caste Oraon, r/o Village Bada Karonja, Tehsil Jashpur Nagar, District Jashpur (C.G.)

----Appellants/Defendants

Versus

1. Piyus, S/o Late Shri Etwa, aged about 75 years,
2. Philip, S/o Late Shani, aged about 76 years,
3. Laurance, S/o Late Shri Somra, aged about 70 years.

All resident of Village Bada Karonja, Tehsil Jashpur Nagar, District Jashpur (C.G.)

4. The State of Chhattisgarh, Through the Collector Jashpur Nagar, District Jashpur (C.G.)

----Respondents/Plaintiffs

For Appellants : Mr. Vivek Kumar Tripathi, Advocate.
For Respondent No. 4/ State : Mr. Sanjeev Agrawal, PL for the State.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

13/08/2019

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

(2) Learned counsel appearing for the appellants/defendants would submit that both

the courts below have concurrently erred in decreeing the suit in favour of the plaintiff and that give rise to substantial question of law for determination.

(3) The plaintiff filed a suit for declaration of title, confirmation of possession and permanent injunction stating inter alia that he is title holder of the suit land as he has purchased the same by registered sale deed dated 28.1.1977 and obtained possession from the seller namely Alveesh; and his names has also been recorded in *namantaran panji* on 13.07.1977 but in the year 1985, the defendants started interfering with the plaintiff's possession over the suit leading to filing of the suit for the aforesaid reliefs.

(4) By filing written statement, the defendants stated that he has perfected his title over the suit land by way of adverse possession.

(5) The trial Court, after appreciating the oral and documentary evidence available on record come to the conclusion that plaintiff is title and possession holder of the suit land and is entitled for decree for declaration of title, confirmation of possession and permanent injunction, which has been found favour with by the first appellate Court.

(6) I have heard learned counsel appearing for the appellants/defendants and considered his submissions and went through the record with utmost circumspection.

(7) Admittedly, the plaintiffs have purchased the suit land by registered sale deed dated 28.1.1977, in which the defendants started interfering leading to filing of the suit for declaration of title, confirmation of possession and permanent injunction and both the courts below after appreciation of evidence available on record decreed the suit in favour of the plaintiffs holding that the suit was filed within 12 years from the date {28.1.1977} of purchase of the suit land by registered sale deed dated i.e. on 29.07.1986 and the defendants have failed to plead and establish their adverse possession over the

suit land under Article 65 of the Limitation Act, 1963. This finding of fact arrived at by the two courts below is 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.

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

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

