

HIGH COURT OF CHHATTISGARH, BILASPUR**SA No. 540 of 2005**

Usha Devi W/o Arja Prasad Dubey, Aged about 45 years, R/o Vill.
Chandaini, Tah. & Distt. Kawardha (C.G.)

---- Appellant/ Defendant No.2

Versus

1. Mahant Rambali Das Guru Late Mangal Das aged about 49 years,
Sarvarakar Shri Radha Krishana Jamat Mandir, Kawardha, R/o Tah. & Distt.
Kawardha (C.G.)
2. Sukrat Bai Widow of Chhotelal aged about 65 years, Tah. & Distt. Kawardha
(C.G.)

---- Respondents

For Appellant/ Defendant No.2 : Mr. Avinash Chaubey, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

15.03.2019

1. Heard on question of admission and formulation of substantial question of law of second appeal preferred by the appellant/defendant under Section 100 of the Code of Civil Procedure, 1908.
2. Suit filed by the plaintiff was dismissed by the trial Court, but on appeal preferred by the plaintiff, the first appellate Court decreed the suit of the plaintiff, against which, this second appeal has been preferred by defendant No. 2.
3. Learned counsel for the appellant/defendant No. 2 would submit that the first appellate Court is absolutely unjustified in granting the decree in favour of the plaintiff by recording a finding, which is perverse to the record and it gives rise to substantial question of law for determination of this second appeal.

4. The plaintiff filed a suit that he is a title-holder of the suit land and he has wrongly been dispossessed by defendants, therefore, he is entitled for possession.

5. Defendants denied the plaint alleging and stated that original defendant No. 1- Jageshwari Bai, purchased suit land from one Mangal Das and thereafter she and original defendant No. 2- Sukrat Bai sold it to defendant No. 3- Usha Devi by registered sale deed dated 7/11/1983 (Ex. P-1).

6. The trial Court dismissed the suit finding no merit but the first appellate Court found that there is no sale deed executed by Late Shri Mangal Das in favour of defendant No. 1, as such, defendant No. 1 has no right and title over the suit land, therefore, by registered sale deed dated 7/11/1983 (Ex.-P-1), no title has been conferred to defendant No. 2. The said finding recorded by the first appellate Court is the finding of fact based on evidence available on record that defendants No. 1 & 2 admittedly have no right and title over the suit land, as such, the finding recorded by the first appellate Court is neither perverse nor contrary to the record. I do not find any merit in this second appeal. Even I do not find any substantial question of law for determination of this second appeal.

7. Accordingly, the second appeal being devoid of merit is liable to be and is hereby dismissed *in limine* without notice to other side. No cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge