

HIGH COURT OF CHHATTISGARH AT BILASPUR**SA No. 341 of 2004**

1. Smt. Sumitra Devi, Aged 44 years, W/o Lali Kunwar.

2. Sabal Ram, Aged about 39 years, W/o Thadu Ram.

Both are Agriculturist, R/o Village Katinda, Tahsil Ambikapur, Distt. Surguja, Chhattisgarh.

---Appellants/Defendants No. 5 & 6

Versus

1. Ratkolhin @ Dhanmet Wd/o Sirdar (Deleted). ---- **Plaintiff**

2. Somarsai S/o Mundra (died) Through Lrs.

Bandhan S/o Somarsai, Aged about 50 years, R/o Village Katinda, Tahsil Ambikapur, Distt. Surguja, Chhattisgarh.

3. Rungu S/o Baiga (died) Through Lrs.

A. Gurwar S/o Rungu, Aged about 50 years.

B. Jangu S/o Rungu, Aged about 45 years.

C. Narayan, S/o Rungu, Aged about 40 years.

All R/o Village Harmauha, Police Station/Tahsil/Distt. Korba, Chhattisgarh.

4. Jhungu S/o Baiga, Aged 46 years, Caste Majhwar R/o Village Katinda, Tahsil Ambikapur, District Surguja, Chhattisgarh.

5. State of Chhattisgarh, Through Collector, Ambikapur, Sarguja, Chhattisgarh. ----**Defendants**

---- Respondents

For Appellants	:	Mr. B.M. Rao, Advocate
For Respondents	:	Mr. Ravindra Sharma and Mr. Malay Jain, Advocates
For State	:	Ms. Shivali Dubey, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

06/08/2019

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by defendants No. 5 and 6 (purchasers

of the suit land) under Section 100 of the Code of Civil Procedure, 1908.

2. Mr. B.M. Rao, learned counsel for the defendants would submit that both the Courts below are absolutely unjustified in holding that plaintiff, being the widow of Sirdar, is entitled to inherit the suit property and is therefore, entitled for declaration of title and possession of the suit land, in addition, declaring the sale deed dated 13/05/1993 as null and void, which gives rise to substantial questions of law for determination in this second appeal.
3. I have heard learned counsel for the parties, considered their submissions and went through the records with utmost circumspection.
4. The suit property originally belonged to Sirdar, who had two wives namely Matkuriya and Ratkolhin. Matkuriya died and Sirdar also died issueless leaving behind his second wife Ratkolhin, who filed the civil suit for declaration of title and possession and for declaration of sale deed dated 13/05/1993, executed by defendants No. 2 and 3 namely Rangu and Jhangu in favour of defendants No. 5 and 6 namely Sumitra Devi and Sabalram i.e. appellants herein, to be null and void.
5. Both the Courts below have negatived the plea of the defendants that in 'Majhwar Tribe', a widow is not entitled to inherit the property of his late husband, as that custom was not pleaded and duly established by the defendants. Now, in this second appeal, it has been pleaded by the defendants that both the Courts below have erred in granting decree in favour of the plaintiff.
6. The two Courts below have concurrently held that defendants have failed to plead and establish that in 'Majhwar Tribe', a widow does not inherit the property of her husband after his death and have also held

that plaintiff is entitled to inherit the property of her deceased husband, therefore defendants No. 2 and 3, having no title over the suit land, were not entitled to sell the suit property in favour of defendants No. 5 and 6. The concurrent finding recorded by both the Courts below is a finding of fact based on evidence available on record which is neither perverse nor contrary to record and does not give rise to any substantial question of law for determination in this second appeal.

7. The second appeal deserves to be and is accordingly dismissed *in limine*. No order as to cost(s).

**Sd/-
(Sanjay K. Agrawal)
Judge**