

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 145 of 2007**

Sevak, S/o Late Shri Kartik Ram Sahu, aged about 45 years, Resident of Village Sursabandha, Tahsil Rajim, District Raipur (C.G.)

----Appellant/Plaintiff

Versus

1. Bishat, S/o Late Shri Kartik Ram Sahu, aged about 52 years,
2. Rewa Ram Sahu, S/o Late Shri Kartik Ram Sahu, aged about 41 years,
3. Brijbhushan, S/o Late Shri Kartik Ram Sahu, aged about 41 years,
4. Taran, S/o Late Kartik Ram Sahu, aged about 29 years,
5. Kewra Bai, W/o Shri Vishram Sahu, aged about 48 years,
6. Girdhar, S/o Shri Vishram Sahu, aged about 26 years,

All are residents of Village Sursabandha, Tahsil Rajim, District Raipur (C.G.)

7. State of Chhattisgarh, Through Collector, Raipur, Chhattisgarh

----Respondents/defendants.

For Appellant	:	Mr. Raj Kumar Pali, Advocate.
For Respondent No.7/State	:	Mr. Sanjeev Sahu, PL for the State.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

19/08/2019

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

(2) The plaintiff filed a suit for declaration of title and partition over the suit land bearing Khasra No. 1260, area 1.29 hectare, which the defendants opposed by filing

written statement and also filed counter claim stating that the suit land was purchased by his maternal grandfather in his name.

(3) The trial Court, after appreciating the oral and documentary evidence available on record, dismissed the suit of the plaintiff and held that suit land bearing Khasra No. 1260 area 1.29 hectare is owned by defendant No.1 as it was purchased by his maternal grandfather in his name as well as in the name of defendant No. 1 and decreed the counter claim, which was duly affirmed by the first appellate Court in the appeal preferred by the plaintiffs.

(4) Learned counsel appearing for the appellant/plaintiff would submit that both the courts below have concurrently erred in dismissing the suit filed by the plaintiff granting counter claim of defendant No. 1 holding that suit property is self acquired property of defendant No. 1 as he and his maternal grandfather purchased the said land by Ex. D-10 on 27.04.1957, as such, concurrent finding recorded by both the courts below is perverse and contrary to the record and that give rise to substantial question of law for determination. He placed reliance upon the judgment of the Supreme Court in the matter of **Ummer Vs. Pottengal Subida and others**¹

(5) I have heard learned counsel appearing for the appellant/plaintiff and considered his submissions and went through the record with utmost circumspection.

(6) In the instant second appeal preferred by the plaintiff, mainly it was argued that vide Exs. P-1 & P-2, the suit land has been partitioned, which the two courts below have negated on the ground that in Exs. P-1 & P-2, there is no mention of the suit land bearing Khasra No. 1260, area 1.29 hectare; secondly that the partition deed (Ex.P-1) is unregistered document, therefore, it is inadmissible in evidence, even otherwise two

¹ (2018) 15 SCC 127

courts below have categorically recorded a finding that the suit land was purchased by his maternal grandfather in his name as well as in the name of defendant No.1 and, therefore, defendant No. 1 is title holder of the suit land and decreed the counter claim in favour of defendant No. 1, is a finding of fact 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.

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

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

