

**HIGH COURT OF CHHATTISGARH, BILASPUR****Second Appeal No. 277 of 2009**

Sabharam, Son of Late Soncharan, Caste Sahu, aged about 38 years, Occupation Agriculture, residence of Akaltara, Purani Basti Ward No. 8, Tahsil Janjgir-Champa, District Janjgir Champa, Chhattisgarh

**----Appellant/Plaintiff**

**Versus**

1. Panchram Sahu, aged about 43 years, Son of Soncharan, Caste Sahu, Occupation Agriculture
2. Bhuneshwar Sahu, aged about 9 years.
3. Vishnu Sahu, aged about 6 years, Minors Through Natural Guardian Father Panchram Sahu.

All resident of village Sulauni, Tahsil Masturi, District Bilaspur, Chhattisgarh.

4. State of Chhattisgarh, Through Collector, Bilaspur, Chhattisgarh

**----Respondents/Defendants**

For Appellant : Mr. K.P. Sahu, Advocate.  
For Respondent No. 4 : Ms. Anjali Singh Chouhan, Panel Lawyer.

**Hon'ble Shri Justice Sanjay K. Agrawal**

**Order On Board**

**05/11/2019**

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

(2) Learned counsel appearing for the appellant/plaintiff would submit that both the courts below have concurrently erred in dismissing the suit of the plaintiff, by recording a finding which is perverse to the record, therefore, appeal be admitted for hearing by formulating substantial question of law for determination.

(3) Plaintiff and defendant No. 1 are the real brothers. Defendants No. 2 & 3 are the sons of defendant No. 1. The suit property was originally held by Soncharan, who was father of plaintiff and defendant No. 1. He (Soncharan) partitioned the suit land between the plaintiff and defendant No. 1 and kept 0.86 acres of the land for himself, and vide Ex.D-2 (व्यवस्था पत्र) settled the land in favour of defendants No. 2 & 3. He (Soncharan) died in the year 2001 and thereafter on 24.01.2005, the plaintiff filed a suit for declaration of title and for declaring the document Ex.D-2 (व्यवस्था पत्र) as null & void, which the trial Court has declined vide its judgment & decree dated 4.4.2008.

(4) Plaintiff preferred first appeal thereagainst. The first appellate Court after re-appreciating the oral & documentary evidence available on record, affirmed the judgment & decree of the trial Court by dismissing the appeal, against which, instant second appeal has been preferred.

(5) Both the courts below have concurrently recorded a finding that the partition has already taken place between plaintiff and defendant No. 1 during life time of their father Soncharan and the said Soncharan has kept 0.86 acres of the land in his favour for his maintenance and he has further settled the land in favour of defendants No. 2 and 3 vide Ex.D-2 (व्यवस्था पत्र). The said finding 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.

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

Sd/-  
(Sanjay K. Agrawal)  
Judge



