NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
SA. No. 251 of 2003

Hirday Narayan, S/o Prem Singh, Caste- Kanwar, Occupation-Agriculturist, R/o Rampur, Tehsil and District- Korba (C.G.).

---- Appellant

Versus

1. Deocharan Singh, S/o Sukhram.
2. Haricharan, S/o Sukhram.
3. Ramcharan, S/o Sukhram.
4. Phiran Singh, S/o Sukhram.
   All caste of Kanwar, Occupation-Agriculturists, residents of Rampur, Tehsil and District- Korba (C.G.)
5. The Collector, Korba, District Korba, Chhattisgarh.

---Respondents

For Appellant	:	Shri Awadh Tripathi, Advocate.
For Respondents	:	None.

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

29/01/2019

1. This is defendant's/appellant's second appeal filed under Section 100 of the Code of Civil Procedure. The suit filed by the plaintiff was dismissed in toto by the trial Court and in the appeal preferred by the plaintiff the First Appellate Court held that the plaintiff is entitled for one-half of the share of the property and one-half of the share of the property has rightly been given to defendant No.1 by Fulkunwar by executing a Will dated 02.02.1994 Ex. D-2, against which, this second appeal has been preferred.

2. Learned counsel appearing for the appellant submits that the First Appellate Court is unjustified in granting half share to the plaintiff in the suit property by recording a finding, which is perverse and contrary to the record.

3. I have heard learned counsel for the appellant and perused the impugned judgment and decree and records of the Courts below as well.

4. The property originally belongs to Dharam Singh, he had three sons namely Shobha Ram, Hira Ram & Bandhan. The original plaintiff was the daughter of Shobha Ram. Hira Ram and Bandhan died issuless. Hira Ram's widow Fulkunwar had executed a Will Ex.D-2 in favour of defendant No.1 of the entire property. The trial Court dismissed the suit, whereas the First Appellate Court held that the plaintiff being daughter of Shobha Ram is entitled for one-half share of the suit property and Ful Kunwar could execute a Will only with regard to her half share of the suit property.

5. The First Appellate Court negatived the ground raised by the defendants that the parties being the Gond caste, the provisions of the Hindu Succession Act would not apply and daughter would not get any share of the suit property of her father as same has not been proved, which is a finding of fact based on evidence available on record. I do not find any illegality or perversity in the said finding and any substantial question of law for determination of this appeal, therefore, this appeal is liable to be and is hereby dismissed. No cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

Jamal