

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 493 of 2003**

1. Gendu, Aged about 30 years, S/o Kodelal Satnami
2. Bhagchand, Aged about 26 years, S/o. Kodelal Satnami

----Appellants/plaintiffs**Versus**

1. Vyasnarayan (since deceased) through LR's.
 - 1.A Smt. Kiran Bai, W/o Vyasnarayan Verma, Aged about 28 years, R/o village Kritbans, Tehsil Chhuikhadan, District Rajnandgaon, Chhattisgarh
 - 1.B Prajaval Verma, S/o Late Shri Vyasnarayan Verma, Aged about 3 years, Minor thorough his mother Smt. Kiran Bai, R/o Village Kritbans, Tehsil Chhuikhadan, District Rajnandgaon, Chhattisgarh
2. Rakesh Kumar, Aged about 26 years, S/o. Hira Lodhi
3. Shyam Bai, Aged about 28 years, D/o. Hira Lodhi
4. Deep Kunwar, Aged about 52 years, Wd/o. Hira Lodhi

Respondents No. 1 to 4 Occupation – Agriculture and Residents of Village Kritbans, Tehsil Chhuikhadan, District Rajnandgaon, Chhattisgarh.

(Defendants No. 1 to 4)

5. State of Chhattisgarh, Through : Collector, Rajnandgaon, District Rajnandgaon, Chhattisgarh. (Defendant No. 5)

---- Respondents

For Appellants	:	Mr. Aman Tamboli, Advocate.
For Respondents	:	Mr. Rahul Tamaskar, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****07/01/2019**

Heard on admission.

1. Plaintiffs namely Gendu & Bhagchan filed a suit for possession and permanent injunction on 7.11.1998 stating *inter alia* that sale of their property made by her mother on 3.2.1981 is null & void as in contravention of Section 8(2) of the Hindu Minority and

Guardianship Act.

2. The trial Court by its judgment & decree dated 27th June, 2002 dismissed the suit as barred by limitation. The plaintiffs preferred first appeal there-against. The first appellate court after re-appreciating the entire evidence adduced in the case, affirmed the judgment and decree passed by the trial court.

3. Learned counsel appearing for the appellants/plaintiffs would submit that both the courts below have erred in dismissing the suit filed by the plaintiffs as barred by limitation and, therefore, the suit be decreed by allowing the instant second appeal.

4. I have heard learned counsel appearing for the appellants and perused the impugned order with utmost circumspection.

5. Admittedly, transfer of property was made by mother of the plaintiffs on 3.2.1981; at that time plaintiffs are the minors; plaintiff No. 1 became major in the year 1991 whereas plaintiff No. 2 became major in the year 1993. Admittedly suit has been filed on 7.11.1998 whereas it ought to have been filed within a period of three years from the date of attaining majority under Article 60 of the Limitation Act, 1963, as such the findings recorded by both the courts below dismissing the suit as barred by limitation is a finding of fact based on material 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. No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

