

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 512 of 2004**

Ramcharitra Prasad, S/o. Ramgati Sao, Aged about 34 years, R/o. Village Chetba,
Tahsil Bagicha, District Jashpur (C.G.)

----Appellant/Defendant

Versus

1. Nandaram, S/o. Budhram, Aged about 50 years, R/o. Narayan Bahali, P.H. No. 38, R.N.M. Kansabel, Tahsil Bagicha, District Jashpur (C.G.)
2. State of Chhattisgarh, Through: Collector Jashpur, District Jashpur (C.G.)
3. Dholaram, S/o. Fajram, Aged about 40 years, R/o. Village Pusra, Tahsil Bagicha, District Jashpur (C.G.)
4. Harihar Ram, S/o Bisun Ram, Aged about 50 years, R/o. Village Pusra, Tahsil Bagicha, District Jashpur (C.G.)

----Respondents/plaintiffs

For Appellant	: Mr. Manoj Paranjpe & Shri Anurag Singh, Advocate.
For Respondent No. 2/State	: Mr. Vimlesh Bajpai, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

29/01/2019

Heard on admission.

(1) This is defendant's Second Appeal filed under Section 100 of CPC against the judgment and decree dated 20.8.2004 passed by Additional District Judge, Jashpur, District Jashpur, in Civil Appeal No. 19-A/2004 affirming the judgment and decree dated 30.12.2003 passed by 1st Civil Judge, Class-I, Jashpur, in Civil Suit No. 2-A/1997, granting the suit in favour of the plaintiffs.

(2) Learned counsel appearing for the appellant/defendant would submit the concurrent findings recorded by both the courts below are perverse and that give rise a substantial

question of law for determination in this appeal.

(3) I have heard learned counsel appearing for the appellant and perused the record of both the courts below with utmost circumspection.

(4) Plaintiff - Nandaram brought a suit for declaration to the effect that sale deed dated 03.05.1993 allegedly said to be executed by him in favour of defendant be declared null and void. The same was decreed by the trial court and affirmed by the first appellate court vide judgment and decree impugned leading to filing of this second appeal under Section 100 of the Code of Civil Procedure.

(5) Thumb impression of the plaintiff on the sale deed dated 3.5.1993 (Ex.D-1) was sent to the expert – Mukund Ramakant Deshpandey (PW-1), who was of the opinion that the thumb impression on the sale deed could not be the thumb impression of plaintiff – Nandaram, which has been accepted by the both the courts below while decreeing the suit in favour of the plaintiff relying upon the decision of the Supreme Court in **Jaspal Singh Vs. State of Punjab**¹, in which the Supreme Court has held that the science of identifying thumb impression is an exact science and does not admit of any mistake or doubt.

(6) Thus, the findings recorded by both the courts below relying upon the evidence of Mukund Ramakant Deshpandey (PW-1) that the sale deed dated 3.5.1993 does not bear the thumb impression of the plaintiff is a finding of fact based on evidence available on record and, therefore, the both the courts below were justified in decreeing the suit in favour of the plaintiff 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.

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

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

¹ AIR 1979 SC 1708

