

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 124 of 2008**

1. Fulwati, W/o Shiv Mangal, Caste-Gond, Aged about 46 years, R/o Village – Beltikri, P.S. & Tahsil – Surajpur, Distt. Sarguja (C.G.)
2. Sahodri, W/o Sahadev Singh, Caste Gond, aged about 43 years, R/o Village – Belsara, P.S. - Ramanujnagar, Tahsil – Surajpur, Distt. Sarguja – (C.G.)

----Appellants/Plaintiffs**Versus**

1. Girjodhan Ram, S/o Shri Bandhu, Aged about 39 years, Caste- Gond, R/o Village- Devipur, P.S. & Tahsil – Surajpur, Dist : Sarguja – (C.G.)
2. State of Chhattisgarh, Through – Collector, Sarguja, Ambikapur – (C.G.)

----Respondents/Defendants

For Appellants : Mr. A.N. Pandey, Advocate.
 For Respondent No. 2/ State : Mr. R.K. Bhagat, Dy. Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****05/09/2019**

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

(2) Learned counsel appearing for the appellants/plaintiffs would submit that both the courts below were unjustified in dismissing the suit holding gift deed dated 3.5.1995 executed by Budhni has not been proved in accordance with law, by recording finding which is perverse to the record.

(3) The plaintiffs filed a suit stating that their maternal grandmother Budhni has executed gift deed dated 3.5.1995 (Ex.P-4) in their favour and thereby they have become title holder of the suit land and entitled for declaration of title and permanent injunction, which both the courts below did not accept as the gift deed dated 3.5.1995 (Ex.P-4) has not been proved in accordance with law.

(4) Under section 123 of the Transfer of Property Act, 1882, gift of immovable property, the transfer must be effected by a registered instrument signed by or on behalf of the donor, and attested by a least two witnesses. Admittedly & undisputedly, gift deed dated 3.5.1995 (Ex.P-4) is an unregistered document and, therefore, no title has been transferred by way of gift in favour of the plaintiffs. Consequently both the courts below were absolutely justified in dismissing the the suit holding that plaintiff is not entitled for decree as claimed. This finding of fact arrived at by the two courts below is 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.

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

Sd/-
(Sanjay K. Agrawal)
Judge

D/-

