

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 435 of 2008**

1. Mu. Johani Widow of Late Victor aged about 50 years,
2. Ku. Puneeta, D/o. Late Victor, aged about 21 years,
3. Deepchand, son of Late Victor, aged about 19 years,
4. Minor Sandeep, son of Late Victor, aged about 15 years – through natural guardian – Mother Mu Johani, Widow of Late Victor.
5. Minor Alpana, D/o Late Victor, aged about 08 years, through natural guardian – mother Mu. Johani, Occupation – Agriculturist,

All are resident of village Kandayeebahar, Tah. Kunkuri, Distt. Jashpur (C.G.)

----Appellants/Plaintiffs

Versus

1. Susheela, wife of Josef Xerox Kujur, caste – Uraon, aged about 44 years, occupation – Teacher ship, R/o. Bankheta, Tah. Kunkuri, Distt. Jashpur (C.G.)
2. State of Chhattisgarh, through the Collector, District Jashpur Nagar (C.G.)

----Respondents/Defendants

For Appellants : Mr. A.N. Bhakta, Advocate.
 For Respondent No. 2/State : Ms. Anjali Singh Chouhan, PL

Hon'ble Shri Justice Sanjay K. Agrawal

Judgment On Board

23/09/2019

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

(2) Shri A.N. Bhakta, learned counsel appearing for the appellants/plaintiff would submit that both the courts below were absolutely unjustified in not declaring the sale deed dated

5.6.1999 executed by Martin Kujur, father of original plaintiff -Victor Kujur & defendant No. 1 in favour of defendant No. 1 and transferring the title and possession to her as null & void by recording a finding, which is perverse to the record and appeal deserves to be admitted for hearing by formulating substantial question of law.

(3) The suit property was originally held by Martin Kujur. Original plaintiff was his son whereas defendant No. 1 is his daughter. Martin Kujur executed a sale deed in favour of defendant No. 1 on 5.6.1999 and placed her in possession. That was challenged by original plaintiff by filing civil suit stating *inter alia* that the suit property is the ancestral property, in which he has also a share, as such, without his consent suit property could not be alienated by his father in favour of his sister, defendant No. 1 herein, which is void, which the trial court did not accept holding that the suit property was the self acquired property of Martin Kujur and he has rightly transferred the same in favour of his daughter -defendant No. 1, which the first appellate Court has also accepted.

(4) Both the courts below have concurrently recorded a finding that suit property is self acquired property of Martin Kujur and, therefore, he was empowered to transfer the same in favour of his daughter / defendant No. 1 herein without consent of his son / original plaintiff. The said finding recorded by two courts below that the suit property is self acquired property of Martin Kujur is a finding of fact based on material available on record. 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.

(5) Accordingly, the second appeal, being devoid of merit, is liable to be and is hereby dismissed in *limine* without notice to the other side.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

