

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 227 of 2006**

Surendra Kumar Singh, S/o Ram Ji Singh, Aged 47 years,
R/o Village Tribhuvanpur, R.I. Circle Pathariya, Tahsil
Mungeli, District Bilaspur, Chhattisgarh.

---- Appellant/Plaintiff**Versus**

1. Gram Panchayat Lamti Aashrit Gram- Tribhuvanpur, Thru-
Sarpanch- Komal Singh, S/o Durup Singh, Age- 50 Yrs, R/o
Lamti, Tribhuvanpur, Tah. Mungeli, Distt. Bilaspur,
Chhattisgarh.
2. State Of Chhattisgarh Thru- Collector, Bilaspur, District
Bilaspur, Chhattisgarh.
3. Kejuram S/o Chovaram (died and deleted)
4. Santosh S/o Kejuram Aged About 33 Years R/o Tribhuvanpur,
Tah. Mungeli, Distt. Bilaspur, Chhattisgarh.

----Respondents/Defendants

For Appellant	:	Mr. Anand Gupta, Advocate
For Respondent No. 1 & 4	:	Mr. Bharat Rajput, Advocate
For State/Respondent No. 2	:	Mr. Mateen Siddiqui, Deputy Advocate General

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****29.08.2019**

1. The substantial question of law involved, formulated and to
be answered in this second appeal preferred by the plaintiff
states as under:-

“Whether both the Courts below have erred in
considering Exhibit P/10 & P/11 in its proper
perspective which occasioned in dismissal of
the suit ?”

(For the sake of convenience, parties would be referred hereinafter as per their status and ranking shown in the suit before the trial Court.)

2. Plaintiff herein filed a civil suit stating *inter alia* that the suit tank was settled in the name of his uncle Lakhan Singh on 27/07/1955 vide Exhibit P11, which has been illegally directed to be vested in favour of the State by order dated 07/12/1965. Questioning the said order of vesting the suit tank in favour of the State, plaintiff preferred an appeal before the Additional Collector, Bilaspur, which was dismissed on 25/01/2000 holding the appeal to be barred by limitation.
3. The civil suit filed by the plaintiff bearing No. 51-A/2003 was dismissed by the trial Court vide its judgment and decree dated 10/08/2005 holding that the order of vesting is strictly in accordance with law as the suit tank had already been vested with the State under Section 251 of the Chhattisgarh Land Revenue Code, 1959 by order dated 07/12/1965 against which plaintiff preferred an appeal before the Additional Collector, Bilaspur in the year 2000, which was dismissed by order dated 25/01/2000 (Exhibit P4) holding the appeal to be barred by limitation.
4. Questioning the judgment and decree passed by the trial Court, plaintiff preferred a civil appeal whereby learned first appellate Court upheld the findings recorded by the trial Court and dismissed the appeal vide judgment and decree dated 03/03/2006.

5. Being aggrieved by the judgment and decree passed by both the Courts below, this second appeal has been preferred by the plaintiff in which substantial question of law has been formulated and set out in the opening paragraph of this judgment.
6. Mr. Anand Gupta, learned counsel appearing for the appellant/plaintiff would submit that both the Courts below have concurrently erred in not considering Exhibit P10 and particularly, Exhibit P11, which is the order of Additional Deputy Commissioner, Mungeli, settling the suit tank in favour of plaintiff's uncle namely Lakhan Lal Singh under Section 5 (f) of the Madhya Pradesh Abolition of Proprietary Rights Act, 1950, therefore, plaintiff is the title-holder of the suit tank which has been illegally vested in favour of the State, as such, the impugned judgment and decree passed by both the Courts below ought to be set aside.
7. Mr. Bharat Rajput, learned counsel appearing for respondents/defendants No. 1 and 4 would support the impugned judgment and decree.
8. I have heard learned counsel appearing for the parties, considered their rival submissions and perused the records with utmost circumspection.
9. It is not in dispute that the suit tank was vested with the State Government in exercise of the power conferred under Section 251 of the Land Revenue Code, 1959 after serving notice and inviting objections, which was replied by the

plaintiff vide Exhibit P12 and thereafter, order dated 07/12/1965 was passed by the revenue Court, vesting the suit tank in favour of the State, questioning which plaintiff preferred an appeal before the Additional Collector, Bilaspur, which was dismissed on 25/01/2000 (Exhibit P4) holding the said appeal to be barred by limitation.

10. Both the Courts below have rightly held that Additional Collector, Bilaspur, in its order dated 25/01/2000 (Exhibit P4), has held that the order of vesting of the suit tank was passed after issuing and serving notice to plaintiff's predecessor in title and they even filed an objection on 21/08/1965, as such, the order dated 07/02/1965 vesting the suit tank in favour of the State is in accordance with law, and even otherwise, the appeal filed by the plaintiff before the Additional Collector, Bilaspur was hopelessly barred by limitation therefore, the order dated 25/01/2000 (Exhibit P4) dismissing the appeal of the plaintiff is also in accordance with law, which is neither perverse nor contrary to record.

11. Exhibits P10 and P11 dated 27/07/1955 have been considered by both the Courts below in its proper perspective while dismissing the suit of the plaintiff holding that these orders have been passed prior to the vesting of the suit tank in favour of the State and thereafter, the order of vesting has been passed on 07/12/1965. As such, I do not find any merit in the second appeal. Consequently, the substantial question of law has been answered in favour of defendants and against the plaintiff.

12. The second appeal deserves to be and is accordingly dismissed. No order as to cost(s).

13. A decree be drawn up accordingly.

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet