

HIGH COURT OF CHHATTISGARH, BILASPURSecond Appeal No.444 of 2014

1. Ratan Lal S/o Shri Konda Ram, aged about 52 years, occupation agriculture.
2. Ferhin Bai Wd/o Konda Satnami, aged about 70 years. Both R/o village Guma, Tahsil and District Raipur (CG)

----- Appellants/Plaintiffs

Versus

1. Smt. Santra Bai Wd/o Funta Lal, aged about 45 years, R/o village Guma, Police Station Urla, Post Tenduwa, R.I.C. Dharsiwa, Tahsil and District Raipur (CG)
2. State of Chhattisgarh, through the Collector, Raipur, District Raipur (CG)
3. Pawan Kumar Agrawal S/o Ramkumar Agrawal, Director Prime Ispat Limited, R/o Ramsagar para, Raipur (CG)

----- Respondents/Defendants

For Appellants/Plaintiffs: Mr.H.B.Agrawal, Senior
Advocate with Ms Shefali
Arora, Advocate

For Respondent NO.2 : Mr.Akash Pandey, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

15/10/2019

1. Heard this second appeal preferred by the appellants/plaintiffs on the question of admission and for formulation of substantial question of law.
2. Mr.H.B.Agrawal, learned Senior Counsel with Ms Shefali Arora, learned counsel for the appellants/plaintiffs, would submit that concurrent finding recorded by two Courts below holding that the plaintiffs are not entitled for declaration of

title in their favour is perverse and contrary to record and this appeal deserves to be admitted by formulating substantial question of law for determination.

3. I have heard learned counsel for the appellants/plaintiffs and perused the records of the Courts below.
4. The suit property was originally held by Konda. He had two wives namely Derhin and Ferhin, Derhin died issueless, whereas Ferhin had two sons out of his wedlock with Konda namely Ratanlal and Phannalal. Defendant NO.1-Santara Bai is widow of Phannalal. Plaintiffs-Ratanlal and Ferhin filed a suit for declaration of title and permanent injunction that they are entitled for declaration of title of Khasra NO.563/1, area 0.761 hectare as the suit land was given to Ferhin Bai for her maintenance. Defendant No.1 filed her written statement stating inter-alia that the plaintiffs are not entitled for declaration of title as she is title-holder of the suit land. The trial Court upon appreciation of oral and documentary evidence available on record held that after death of Derhin Bai and Konda the property held by Konda was partitioned between Ratanlal and Phannalal (two sons of Konda) and the suit property fell in share of Phannalal and therefore after death of Phannalal, his wife

Santara Bai i.e. defendant No.1 would inherit the suit property, which has been affirmed by the first appellate Court. The finding recorded by two Courts below holding that after death of Derhin and Konda the suit property held by Konda was partitioned between Ratanal and Phannalal and the suit property fell in share of Punnalal, husband of defendant NO.1 is finding of fact based on evidence available on record. It is neither perverse nor contrary to record. I do not find any illegality or perversity in the said finding and even I do not find any substantial question of law for determination of this second appeal.

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

Sd/-

(Sanjay K. Agrawal)
Judge

B/-