

HIGH COURT OF CHHATTISGARH, BILASPURSecond Appeal No.156 of 2005

Sukhdev, Age about 50 yrs., S/o Sukhram, Caste Gond, R/o Vill.
Nawagarh (Pariyabahra), Teh. Bindranawagarh, Distt. Raipur (C.G.)
---- Appellant

Versus

1. Pyare Singh, Age about 35 yrs., S/o Kashiram, R/o Village Nawagarh (Pariyabahra), Teh. Bindranawagarh, Distt. Raipur (C.G.)
2. State of Chhattisgarh, Through Collector, Raipur.
3. Shivram Singh, Age about 45 yrs., S/o Sukhram Gond, R/o Vill. Nawagarh (Khamhari Para), Teh. Bindranawagarh, Distt. Raipur (C.G.)
---- Respondents

For Appellant: Mr. Raja Sharma, Advocate.
For Respondent No.2 / State: -
Mr. Anjali Singh Chauhan, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Judgment On Board

20/08/2019

1. Heard on admission and formulation of substantial question of law in the second appeal preferred by defendant No.2.
2. Mr. Raja Sharma, learned counsel appearing for the appellant herein/ defendant No.2, would submit that the finding recorded by both the Courts below holding that the appellant herein / defendant No.2 is not the adopted son of Devkunwar with her first husband namely Dukhlal, is unsustainable and bad in law, as such, he is the adopted son of Devkunwar and her first husband Dukhlal and therefore entitled to inherit the property of Devkunwar. The finding recorded by the two Courts below is perverse and contrary to the evidence available on record.
3. The plaintiff / respondent No.1 herein filed a suit that the suit property

mentioned in Schedules A & B is the property of his wife Devkunwar and defendants No.1 & 2 are not entitled to interfere with the possession in which defendant No.2 claimed that he is the adopted son of Devkunwar out of her first husband Dukhlal and therefore he is entitled to inherit the property of Devkunwar. The trial Court did not accept the plea of defendant No.2 and on the basis of *lamsena* custom proved by the plaintiff held that the suit property is held by Devkunwar and the plaintiff is second husband of Devkunwar and is entitled to inherit the property of his wife Devkunwar which the first appellate Court has also affirmed in the appeal preferred by defendant No.2.

4. The finding recorded by the two Courts below holding that the property was the self-acquired property of Devkunwar and the plaintiff being the husband of Devkunwar, inherited the property and defendant No.2 is not the adopted son of Devkunwar with her first husband Dukhlal is a finding of fact based on the evidence available on record which is neither perverse nor contrary to the record. I do not find any perversity or illegality in the said finding. The second appeal is liable to be and is hereby dismissed *in limine* finding no substantial question of law for determination. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge