

HIGH COURT OF CHHATTISGARH, BILASPUR
SA. No. 12 of 2005

Amar Sai, aged about 62 years, S/o Shri Rupan Urao, Agriculturist, R/o Village-Junwani, Tah-Patthalgaon, Distt-Jashpur C.G.

---- Appellant

Versus

1. Bahmal Das (Dead) S/o Shri Sukhsai : Panka, (No Lrs except Respondent-2) Agriculturist, R/o Village-Junwani, Tah-Patthalgaon, Distt-Jashpur (C.G.)
2. Budhiya Das, Aged about 67 years, S/o Shri Sukhsai Panka, R/o Village : Kunjara, Tah-Gharghoda, Distt- Raigarh
3. State of Chhattisgarh, Through, Collector, Jashpur, CG.

---Respondents

For Appellant : Mr. Anurag Shrivastava, Advocate.

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

31.01.2019

1. Heard on admission.
2. This is defendant's second appeal under Section 100 of C.P.C, by which the First Appellate Court has affirmed the judgment and decree passed by the trial Court decreeing the suit of the plaintiff for declaration of sale deed dated 25.01.1988 as void and consequent decree for delivery or possession.
3. Learned counsel appearing for the defendant/appellant herein would submit that both the Courts below are absolutely unjustified in holding that prior permission under Section 165 (7-b) of the Chhattisgarh Land Revenue Code, 1959 (hereinafter, called as the Code of 1959) of the Collector was required for selling the property by the plaintiff's father in absence of such permission, the alienation made by the plaintiff's father in favour of defendant No.1 was void and, therefore, plaintiff is not entitled for decree for declaration and recovery of possession.
4. I have heard learned counsel for the appellant.

5. Admittedly, the plaintiff's father was a member of notified ab-original tribe, and the suit land could not have been transferred without prior permission of the Collector under Section 165 (7-b) of the Code of 1959, such finding recorded by the trial Court is a finding of fact based on evidence available on record. Section 165 (7-b) is mandatory in nature and the transfer made in contravention of the provision under Section 165 (7-b) of the Code, is void and rightly declared void by the trial Court and rightly granted decree for possession in favour of the plaintiff, which has been upheld by the First Appellate Court, in which I do not find any perversity or illegality much-less the substantial question of law for determination. Therefore, this appeal is liable to be and is hereby dismissed in *limine*. No order as to cost(s).

Sd /-

(Sanjay K. Agrawal)

Judge