

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No.348 of 2005**

Brij Lal S/o Sumer aged about 60 years R/o Village Narayanpur, P.S. Prem Nagar, Tahsil Ambikapur, Distt. Sarguja (CG)

---- Appellant

Versus

1. Kariman S/o Gopi chand Kalwar Aged about 60 years, R/o Village Tarkeshwar, P.s. Premnagar, Tahsil Surajpur Distt. Sarguja (CG)
2. Ganga Bai Wd/o Chaitram aged about 60 years, R/o Village Kavarimal, Tahsil Kartala, Post Hardi Bazar, Distt. Korba (CG)
3. State of M.P. Now State of C.G. Through Collector Sarguja, Distt. Sarguja (CG)

---- Respondents

For Appellant/Plaintiff	:	Mr.D.N.Prajapati, Advocate
For Respondent No.3	:	Ms Meha Kumar, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

13/2/2019

1. This is plaintiff's second appeal under Section 100 of the Code of Civil Procedure, 1908.
2. The plaintiff's suit was dismissed by the trial Court and upheld by the First Appellate Court, against which, this second appeal has been preferred.
3. Learned counsel for the appellant/plaintiff would submit that both the Courts below have concurrently erred in dismissing the suit of the plaintiff by recording a perverse finding, which gives rise to substantial question of law.
4. I have heard learned counsel for the appellant on question of

admission of appeal, perused the impugned judgment and decree impugned and records of the Courts below with utmost circumspection.

5. Two plaintiffs filed a suit for declaration of title and permanent injunction stating inter-alia that plaintiff No.2 Jugni sold the suit land in favour of plaintiff No.1 on 22.11.84 (Ex.P/5) and therefore, plaintiff No.1 has become title-holder of the suit land. The trial Court after appreciating oral and documentary evidence available on record came to the conclusion that by the judgment and decree dated 29.1.81 (Ex.D/2) in Civil Suit No.48A/79 (Chaitram and another v. Jagumani) the trial Court has declared that Chaitram to be title-holder of the suit land and granted permanent injunction in his favour restraining Jagumani from interfering with his peaceful possession. Thereafter in Civil Suit No.318A/94 (Ex.P/6) filed by Kariman against Chaitram, decree for specific performance was granted in favour of Kariman against Chaitram. In view of that, both the Courts below have clearly recorded a finding that Jugni has no right and title over the suit land, therefore, no title can be conveyed by plaintiff No.2 in favour of plaintiff No.1-Brijlal over the suit land by alleged sale. The finding recorded by two Courts below is a finding of fact based on evidence available on record, which is neither perverse nor contrary to record. I do not find any illegality or perversity in the said finding. Even I do not find any substantial question of law for determination of this second appeal.

6. Accordingly, the second appeal being devoid of merit is liable to be

and is hereby dismissed in *limine*. No cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-