

HIGH COURT OF CHHATTISGARH AT BILASPUR**SA No. 126 of 2017**

1. Kunjan S/o Late Shri Jagsay Uraon, aged about 56 years, Occupation- Service, R/o Kedarpur, Thana- Ambikapur, Civil & Revenue, Distt. Surguja, Chhattisgarh.
2. Smt. Dariyo D/o Late Shri Jagsay Uraon, aged about 49 years, R/o Village Sureshpur, Thana & Tahsil Patthalgaon, Civil & Revenue Distt. Jashpur, Chhattisgarh.
3. Smt. Meera Bai D/o Late Shri Jagsay Uraon, aged about 47 years, R/o Village Chidapara, Thana & Tahsil Seetapur, Civil & Revenue Distt. Surguja, Chhattisgarh.
4. Smt. Sukhmaniya D/o Late Shri Jagsay Uraon, aged about 46 years.
5. Smt. Budhmaniya D/o Late Shri Jagsay Uraon, aged about 44 years.
6. Smt. Laxmaniya D/o Late Shri Jagsay Uraon, aged about 42 years.
7. Smt. Jagani, Wd/o Late Shri Jagsay Uraon, aged about 70 years.

Appellant No. 4 to 7 are residents of Village Golabuda, Thana & Tahsil Dharamjaygarh, Civil & Revenue Distt. Raigarh, Chhattisgarh.

---Appellants/Defendants

Versus

1. Smt. Kunchu Bai W/o Sukhana Uraon, By caste- Uraon, aged about 65 years, R/o Village Chidapara, Thana & Tahsil Seetapur, Civil & Revenue Distt. Surguja, Chhattisgarh. **----Plaintiff**
2. State of Chhattisgarh, through Collector, Raigarh, Distt. Raigarh, Chhattisgarh.

----Respondents

For Appellants	:	Mr. Sunil Sahu, Advocate
For State	:	Mr. Akash Pandey, Panel Lawyer

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

29/07/2019

1. Heard on admission and formulation of substantial question of law for determination in this second appeal preferred by the defendants under Section 100 of the Code of Civil Procedure, 1908.
2. Mr. Sunil Sahu, learned counsel for the defendants submits that both the Courts below were absolutely unjustified in holding that the plaintiff - Kunchu Bai is not the daughter of Thepa, out of his wedlock with Munagi Bai, and therefore, both the Courts below are absolutely unjustified in granting decree of $\frac{1}{2}$ share in the suit property in favour of the plaintiff. The said finding, being perverse, gives rise to substantial question of law for determination in this second appeal.
3. I have heard learned counsel for the defendants, considered his submissions and went through the records with utmost circumspection.
4. The suit property was originally held by Thepa and his brother Jagsay. Plaintiff – Kunchu Bai claimed to be the daughter of Thepa, after whose death, she being his sole legal representative, claimed the suit property, whereas the defendants are the son and daughters of Jagsay.
5. Learned trial Court, after appreciating the oral and documentary evidence on record, came to the conclusion that plaintiff is the daughter of Thepa out of his wedlock with Munagi Bai, and also relied upon Exhibit P-8, which is the reply filed by the defendants before the revenue Court, in which they have admitted plaintiff to be the daughter of Thepa and have also claimed that she has relinquished her $\frac{1}{2}$ share in favour of her uncle namely Jagsay, which learned first

appellate Court has accepted in the appeal preferred by the defendants and has dismissed the said appeal.

6. The said finding recorded by both the Courts below that plaintiff is the daughter of Thepa and Munagi Bai is a finding based on documentary evidence Exhibit P-8 as well as the statement made by D.W. 1, where she has admitted that plaintiff, at the time of mutation, relinquished her $\frac{1}{2}$ share in favour of her uncle i.e. Jagsay. As such, the finding recorded by both the Courts below that plaintiff has inherited $\frac{1}{2}$ share in the suit property, which was her father's share, is a finding of fact based on evidence on record which is neither perverse nor contrary to record. I do not find any substantial question of law for determination in this second appeal.
7. This second appeal deserves to be and is accordingly dismissed *in limine* at admission stage without noticing to the other side.

Sd/-

(Sanjay K. Agrawal)
Judge