

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 185 of 2009****Judgment Reserved on 14.11.2019****Judgment delivered on 19.11.2019**

1. Butung, S/o Late Sufal, by caste Kanwar, resident of Village Chiknipali.
2. Jai Singh, S/o Late Sufal, by caste Kanwar, resident of vilage Chiknipali.
3. Badhai, S/o Late Sufal, by caste Kanwar, resident of vilage Chiknipali.
4. Tiharu Ram, S/o Late Sufal, by caste Kanwar, resident of vilage Chiknipali.
5. Ramesh Kumar, S/o Chutung, by caste Kanwar, resident of vilage Chiknipali.
6. Mangal Singh, S/o Late Sufal, by caste Kanwar, resident of village Chiknipali.

(Sl. No. 1 to 6 all resident of Village Chikinipali, Tahsil Kartala and District Korba (C.G.)

----Appellants/Defendants**Versus**

1. Mohan Singh, S/o Bala Ram Kanwar, resident of Village Tunda, Tahsil Kartala and District Korba (C.G.) (Plaintiff)
2. Government of Chhattisgarh, through Collector, Korba (Defendant)

----Respondents

For Appellants : Mrs. Renu Kochar, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**C.A.V. Judgment**

(1) Heard on the question of admission and formulation of substantial question of law of this second appeal preferred by defendants under Section 100 of the Code of Civil

Procedure, 1908 questioning the impugned judgment & decree dated 22nd April, 2008 passed in Civil Appeal No. 19-A/2007 by the First Appellate Court affirming the judgment & decree of the trial Court dated 3.9.2007 passed in Civil Suit No. 182-A/94, decreeing the suit.

(2) Learned counsel appearing for the appellants/defendants would submit that both the courts below have concurrently erred in decreeing the suit in favour of the plaintiff holding that he has purchased the suit land from Sufal, father of defendants No. 1 to 6 by registered sale deed dated 30.07.1982 (Ex.P-1) and thereby he became title holder of the suit land. She would further submit that such a finding is not only contrary to the record but perverse to the record also, therefore, appeal deserves to be admitted for hearing by formulating substantial question of law for determination.

(3) The suit property was admittedly held by Sufal, son of Baiga Kanwar, who is father of defendants No. 1 to 6. The plaintiff is purchaser from Sufal by registered sale deed dated 30.07.1982 (Ex.P-1) whereas defendants No. 1 to 6 are the sons of Sufal. The plaintiff filed suit for declaration of title and permanent injunction stating inter alia that he has purchased the suit land from Sufal, father of defendant No. 1 to 6 and also with the consent of defendants No. 1 to 6 to the said sale by registered sale deed dated 30.07.1982 (Ex.P-1) for a cash consideration of Rs.2,000/- and since then he is in possession thereof and his name was also mutated in the revenue records by the revenue authority vide order dated 7.9.1982, which was challenged by the defendants in appeal filed before the Sub Divisional Officer, Korba and the SDO, by its order dated 18.9.1994, set aside the order of mutation leading to filing of suit for declaration of title and for permanent injunction stating that he has become title holder of the suit land

on the strength of registered sale deed dated 30.07.1982 (Ex.P-1) and consent given by defendants No. 1 to 6 to the said sale vide Ex.P-2.

(4) The defendants, by filing written statement, set up a plea that no such sale deed was executed in favour of the plaintiff and they have not consented for the said sale vide Ex.P-2, as such, the suit deserves to be dismissed.

(5) The trial Court, on appreciation of oral and documentary evidence, decreed the suit holding that the plaintiff is title holder of the suit land on the basis of registered sale deed dated 30.07.1982 (Ex.P-1) and the defendants have no right or title to interfere with his possession and granted injunction in favour of the plaintiff.

(6) Defendants preferred first appeal thereagainst. The First Appellate Court, after re-appreciation of oral and documentary evidence available on record, affirmed the judgment and decree of the trial Court by dismissing the appeal preferred by the defendants, against which instant second appeal has been preferred.

(7) Both the courts below have concurrently recorded a finding that the suit land is admittedly held by Sufal, who is father of defendants No. 1 to 6, and plaintiff is purchaser from said Sufal vide Ex.P-1 and the consent of defendants No. 1 to 6 is also annexed with the sale deed, though it is not separately marked as exhibit. Both the courts below have further recorded a finding that the plaintiff has purchased the suit land from the erstwhile owner of suit land i.e. Sufal, who is father of defendants No. 1 to 6 and defendants No. 1 to 6 have consented to the said sale. As such, the concurrent finding recorded by both the courts below that the plaintiff has acquired title over the suit land by way of registered sale deed dated 30.07.1982 (Ex.P-1) from Sufal, father of

defendants No. 1 to 6, is a finding of fact based on material available on record. I do not find it either perverse or contrary to record and no question of law much less substantial question of law is involved in this appeal.

(8) Accordingly, the second appeal, being devoid of merit, is liable to be and is hereby dismissed in *limine* without notice to the other side. No costs

Sd/-
(Sanjay K. Agrawal)
Judge

D/-