

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Judgment reserved on 1-4-2019**

**Judgment delivered on 26-04-2019**

**FA No. 124 of 2013**

1. Kashthagar Adhikari Divisional Forest Officer, Mandna Depot, Pendra Road, Tah. Pendra Road, Distt. Bilaspur C.G., Chhattisgarh
2. State of Madhyay Pradesh Now Chhattisgarh Thru- Collector, Bilaspur C.G.

**---- Appellants/defendants**

**Versus**

1. Ram Singh Dead Through Legal Heirs.
  - (A) Amarjeet Singh, Age- 58 Years, S/o Late Ram Singh, R/o Kargi Road, Kota, Tah. Kota, Distt. Bilaspur C.G.
  - (B) Balbir Singh S/o Late Ram Singh Aged About 36 Years R/o Kargi Road, Kota, Tah. Kota, Distt. Bilaspur C.G.
  - (C) Balwant Kaur W/o Pragat Singh Aged About 55 Years R/o Kargi Road, Kota, Tah. Kota, Distt. Bilaspur C.G., District : Bilaspur, Chhattisgarh
  - (D) Kalwant Kaur W/o Kinkar Singh Aged About 60 Years R/o Kargi Road, Kota, Tah. Kota, Distt. Bilaspur C.G.,
  - (E) Manjeet Kaur W/o Makkhan Singh Aged About 50 Years R/o Fugwada, Distt. Fugwada, Punjab.,
  - (F) Balvinder Singh W/o Balvind Singh Aged About 48 Years R/o Fugwada, Distt. Fugwada, Punjab.

**---- Respondents/plaintiffs**

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For appellants/State : Mr. Ravish Verma, Govt.  
Advocate.

For respondent No.1(A) : Mr. Malay Kumar Bhaduri,  
Advocate.  
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**SB: Hon'ble Shri Justice Ram Prasanna Sharma**

**CAV JUDGMENT**

1) This appeal is preferred under Section 96 of the Code of Civil Procedure, 1908 against the judgment/decreed dated 29-1-2013 passed by 5th Additional District Judge, Bilaspur (CG) in Civil Suit No.3-A/2013 wherein the said court decreed the suit filed by the respondents/plaintiffs for declaration of title and possession of land bearing Khasra No. 55/16 and 56/17, area nine acres situated at village Mandna, Patwari Halka No.25, Revenue Circle Gorella, Tahsil Pendra Road, District Bilaspur.

2) Respondents/plaintiffs filed a suit before the trial Court that they are owners of the land in question and area of the land was earlier 10 acres and now it is nine acres. Appellant No.1/defendant who is officer of Forest Department stacked the timber in the land belonging to respondents/defendants in the month of March 1980 and the land was converted into timber house (Kashthagar) that is why suit was filed against the appellants/defendants which was decreed by the trial court.

3) Learned counsel for the appellants would submit as under:

- i) Khasra No.55/1 and 56/1 area 19 acres was made over to Forest Department by the Department of Revenue in the year 1978 and the land in dispute is "Bade Jhaad Ka Jungle".
- ii) The respondents/plaintiffs are encroachers and they have no title over the land.
- iii) Finding of the trial court is not based on

record of right butt it is based on misappreciation of oral and documentary evidence available on record, therefore, same is liable to be set aside.

4) On the other hand, learned counsel for the State would submit that the finding of the trial court is based on proper marshalling of the evidence which does not call for any interference by this court while invoking jurisdiction of the appeal.

5) I have heard learned counsel for the parties and perused the record in which judgment and decree has been passed.

6) Respondents/plaintiffs adduced evidence of Tandaram Sahu (PW/1), Madhura Prasad Kashyap (PW/2), Shiv Mangal Singh (PW/3) and Ramchandra (PW/4) and produced documents Ex.P/1 to P/13 whereas appellants/defendants adduced evidence of Sub Divisional Officer (Forest) PC. Pandey (DW/1) and produced documents Ex. D/1 to D/14.

7) The land in question Khasra No. 55/16 and 56/17 area ten acres was recorded in the name of Ram Singh as per Ex.P/1 showing that he is in possession of the land by cultivating paddy and pusat over the land. His possession is substantiated by report of Revenue Inspector as per Ex.P/3. Again, it is substantiated by document Ex.D/1 which is report of Assistant Superintendent, Land Records. The document filed by the respondents is regarding different lands and from the documentary evidence adduced by the

appellant side it is not established that the land in question belongs to Revenue Department.

8) The question before the trial Court was limited regarding land in question and issue was not unlimited regarding survey No. 55/1 and 56/1 which is shown in Ex.D/9 as "Bade Jhaad Ka Jungle". Looking to the report of Revenue Officer and record of right, it is clearly established before the trial Court that the land in question is owned by Ram Singh and the respondents are his successors. After going through the oral and documentary evidence adduced by both sides, this court has no reason to take contrary view to what is recorded by the trial Court. The appeal is liable to be dismissed as argument advanced on behalf of the appellant is not sustainable.

9) Accordingly, decree is passed in favour of respondents and against the appellant as under:

- (i) The appeal is dismissed with cost.
- (ii) Parties to bear their own costs.
- (iii) Pleader's fee., if certified, be calculated as per Schedule or as per certificate whichever is less.
- (iv) A decree be drawn up accordingly.

Sd/-

**(Ram Prasanna Sharma)**  
JUDGE