

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No.441 of 2008**

Kangalu S/o. Sundar Mehar, Aged about 80 years, R/o.
Village Hardi, Police Station Pithora, Tahsil &
District Mahasamund (CG)

----- **Appellant/Defendant**

Versus

1. Girdhari S/o. Teklal Patel, Aged about 27 years,
2. Giriraj S/o. Teklal Patel, Aged about 23 years,
3. Smt. Prema Bai W/o. Teklal, Aged about 45 years,

All Above R/o. Village Hardi, Police Station Pithora,
Tahsil & District Mahasamund (CG)

----- **Plaintiffs**

4. State of Chhattisgarh, through Collector, Mahasamund,
District Mahasamund (CG)

----- **Respondents**

For Appellant/Defendant :	Mr. Manoj Paranjape and
	Mr. Prasoon Agrawal, Advocates
For Respondent NO.4 :	Ms Shivali Dubey, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

04.02.2020

1. Heard this second appeal preferred by the appellant/defendant on the question of admission and for formulation of substantial question of law.
2. By the impugned judgment and decree, the first appellate Court dismissed the appeal preferred by the appellant/defendant affirming the judgment and decree of the trial Court decreeing the suit of the plaintiffs.

3. Learned counsel for the appellant/defendant would submit that both the Courts below have concurrently erred in holding that the plaintiffs have proved their title over the suit land and entitled for declaration of title and permanent injunction by recording a finding which is perverse and contrary to record and as such, the appeal deserves to be admitted by formulating the substantial question of law for determination.

4. The suit filed by the plaintiffs claiming that they are title holders of Khasra Nos.4/2, 7/2, 8/2 and 11/3, total area 4 acres granted on lease by the State Government to his grandfather Damodhar and after his death his father and thereafter they are in possession of the suit land. It was not granted to defendant No.1 on lease and as such, they are entitled for declaration of title and permanent injunction. The defendant set-up a plea that the suit land was granted to him on lease by the State Government. The trial Court after appreciation of oral and documentary evidence available on record, by its judgment and decree dated 25.4.2008, decreed the suit holding that the plaintiffs are title-holders of the suit land and no lease was granted in favour of defendant No.1 and defendant No.1 has failed to establish his title and

possession over the suit land. On appeal being preferred by the defendant, the first appellate Court has affirmed the judgment and decree of the trial Court and dismissed the appeal.

5. The trial Court has clearly held that the suit land was granted on lease in favour of the plaintiffs' grandfather vide Ex.P-17 on 18.3.1970 by the competent officer and that was shown in chak vide Ex.P-19, as such, the plaintiffs are title-holders and possession of the suit land and that finding has been affirmed by the first appellate Court. Concurrent finding recorded by two Courts below qua title and possession of the plaintiffs could not be shown to be perverse and contrary to record by learned counsel for the appellant/defendant, as such, I do not find any perversity or illegality in the said finding.
6. Accordingly, the second appeal being devoid of merit is liable to be and is hereby dismissed in *limine* without notice to other side.

Sd/-

(Sanjay K.Agrawal)
Judge

B/-