

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No.44 of 2009**

- Babulal, S/o. Shri Chintaram, aged about 41 years, R/o. Village Dhothma, Tah. Mungeli Distt. Bilaspur CG)

---- Appellant/Plaintiff**Versus**

1. Chintaram, S/o. Pachkod Sahu, aged about 68 years, R/o. Village Dhothma, Tah. Mungeli, Distt. Bilaspur (CG)(Defendant No.1)
2. Suresh Kumar, S/o. Chintaram, aged about 37 years, R/o. Village Dhothma, Tah. Mungeli, Distt. Bilaspur (CG)(Defendant No.2)
3. Agahan Bai, W/o. Chintaram Sahu, aged about 62 years, R/o. Village Dhothma, Tah. Mungeli, Distt. Bilaspur (CG) (Defendant No.3)
4. Tantu Ram, S/o. Chaitu Sahu, aged about 73 years, R/o. Village Dhothma, Tah. Mungeli, Distt. Bilaspur (CG)
5. State of Chhattisgarh through Collector Bilaspur Distt. Bilaspur (CG)

---Respondents

For Appellant :Shri Vinod Kumar Sharma, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****15.7.2020.**

1. Proceedings of this matter have been taken up for admission through Video Conferencing.
2. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellant/plaintiff against the impugned judgment and decree passed by the first appellant Court

affirming the the judgment and decree by which the trial Court dismissed the suit of the plaintiff.

3. Learned counsel for the appellant/plaintiff submits that both the courts below have concurrently erred in dismissing the suit of the plaintiff by recording a finding which is perverse to the record, therefore, the appeal involves substantial question of law for determination and the appeal may be admitted for hearing.

4. I have heard learned counsel for the appellant and perused the records of the Courts below.

5. The plaintiff is the son of defendant No.1 and defendant No.2 is also the son of defendant No.1 and defendant No.3 is wife of defendant No.1. The plaintiff brought the suit for suit land situated at Village Dhothma in Khasra No.247/01 area 1.93 acres and Khasra No.251 area 1.81 acres in which the plaintiff and defendants 1 to 3 are co-sharers. According to the plaintiff, the suit property is the joint Hindu family property, defendant No.1 cannot alienate the same and the sale deed executed by him on 14.8.2002 is not binding on him. The trial Court dismissed the suit of the plaintiff holding that the suit property is the self acquired property of defendant No.1 and the sale made on 14.8.2002 was for legal necessity and the same has been affirmed by the first appellate Court. Both the Courts below have concurrently and rightly held that suit property is not the joint Hindu family property and

sale made on 14.8.2002 was for legal necessity. The finding recorded by both the Courts below regarding nature of property and that the sale made on 14.8.2002 by defendant No.1 was for legal necessity, is a finding of fact based on evidence available on record which is neither perverse nor contrary to the record and the appeal does not involve any substantial question of law in this appeal for admission.

6. The second appeal deserves to be and is accordingly dismissed in limine without notice to the other side. No cost(s).

Sd/-

(Sanjay K. Agrawal)
JUDGE