

HIGH COURT OF CHHATTISGARH, BILASPUR
Second Appeal No.43 of 2009

Mangal Das S/o Late Balaram, aged about 67 years,
 Caste Manikpuri, R/o Village Gidhauree, Tahsil
 Janjgir, District Janjgir-Champa (CG)

---- Appellant/Plaintiff

Versus

- 1(A) Gorelal, aged about 35 years, S/o Late Birichh Ram,
 (B) Anand Ram, aged about 33 years, S/o Late Birichh
 Ram,
 (C) Atma Ram, aged about 31 years, S/o Late Birichh Ram
 (D) Puni Ram, aged about 29 years, S/o Late Birichh Ram
 All 1-A to 1-D R/o Village Gidhauree, Tahsil
 Janjgir, District Janjgir-Champa (CG)
2. Jila Sahkari Bhumi Vikas Bank (Ltd.), Bilaspur,
 Registered Sahkari Sanstha Head Office Bilaspur
 (CG)
3. Grahana Das, aged about 65 years, S/o Late Baladas,
4. Peela Das, aged about 61 years, S/o Late Bala Das
 Both 3-4 R/o Village Gidhauree, Tahsil Janjgir,
 District Janjgir-Champa (CG)
5. State of Chhattisgarh, Through Collector, District
 Janjgir-Champa (CG)

---- Respondents/Defendants

For Appellant / Plaintiff:-

Mr.Suresh Pandey, Advocate

For Respondent No.5/ State:-

Mr.Animesh Tiwari, Dy.A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

15/07/2020

1. Proceedings of this matter have been taken up
 through video conferencing.
2. Heard this second appeal on the question of
 admission and formulation of substantial question
 of law preferred by the appellant/plaintiff.
3. By the impugned judgment and decree, the first
 appellate Court has dismissed the first appeal

preferred by the plaintiff affirming the judgment and decree of the trial Court dismissing the suit for declaration of title and permanent injunction.

4. Mr. Suresh Pandey, learned counsel for the appellant/plaintiff, would submit that both the Courts below are absolutely unjustified in holding that auction of the plaintiff's land for satisfaction of loan amount was not void and is not accordance with law. Such a perverse finding has been recorded and therefore, the appeal involves substantial question of law for determination and it be admitted for hearing by framing the substantial question of law.

5. The plaintiff & defendants No.3, 4 and his mother Lutni were sanctioned loan of ₹3000/-, out of which, ₹1500/- was paid to them by defendant No.2 and the suit property was mortgaged for security of loan, but when loan amount was not paid and it became due amounting to ₹2147.55, then auction was held on 4.6.1978 and it was knocked down in favour of original defendant No.1 and thereafter sale deed was made in his favour on 30.5.1979 and he was given possession of the said suit land after completing the auction proceedings by the bank. On 07.11.1981, the plaintiff alone filed a suit against the bank that proceeding initiated for auction of the suit land and ultimate auction held

is null & void and he is entitled for possession of the suit land from defendant No.1.

6. Concurrent finding recorded by two Courts below holding that after noticing the plaintiff/interested persons auction was held and it was in accordance with law, defendant No.1 is *bona fide* purchaser of the suit land and the suit land has been registered in his favour on 30.5.1979 and he is in possession of the suit land. All the findings are finding of fact based on evidence available on record. It is neither perverse nor contrary to record. I do not find any perversity or illegality in the said findings and even I do not find any substantial question of law for determination of this second appeal.
7. 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/-