

HIGH COURT OF CHHATTISGARH, BILASPURSecond Appeal No.18 of 2010

Milap Das, S/o Mangal Das, Caste Panika, Aged about 35 years, R/o
Village Bija, Tahsil Takhatpur, District Bilaspur (C.G.)

(Plaintiff)
---- Appellant

Versus

1. Kashi Das, S/o Punni Das, aged about 36 years,
2. Pushpa Bai, W/o Kashi Das, aged about 30 years,

Both R/o Village Bija, Tahsil Takhatpur, District Bilaspur (C.G.)
(Defendants)
---- Respondents

For Appellant / Plaintiff: Mr. Vineet Kumar Pandey, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

22/09/2020

1. Proceedings of this matter have been taken-up through video conferencing.
2. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellant herein / plaintiff.
3. By the impugned judgment, the first appellate Court has dismissed the appeal of the plaintiff affirming the judgment & decree of the trial Court dismissing the suit.
4. Learned counsel for the appellant herein / plaintiff would submit that both the Courts below have erred in not accepting Exs.P-1 & P-2 by which the property was given by Jhuna Bai in favour of the plaintiff and

that has been proved, but both the Courts below have committed legal error by recording a perverse finding, as such, the appeal deserves to be admitted.

5. The suit property was held by Tijau Das, he died leaving behind Jhuna Bai with no issue. It is the case of the plaintiff that vide Ex.P-2 Jhuna Bai executed an agreement dated 28-10-1999 in his favour, as he maintained Jhuna Bai during her lifetime and therefore he become title holder which both the Courts below have not accepted holding that Ex.P-2 is not an instrument transferring title by Jhuna Bai in favour of the plaintiff and even it is not a will deed. Admittedly, Ex.P-2 is an unregistered document alleged to have been executed by Jhuna Bai in favour of the plaintiff, but it is not a deed transferring title in favour of the plaintiff nor it is a will deed executed by Jhuna Bai in favour of the plaintiff. Both the Courts below have rightly and concurrently held that by Ex.P-2 dated 28-10-1999, no title has been vested in favour of the plaintiff which is a finding of fact based on the evidence available on record, it is neither perverse nor contrary to the record. The second appeal deserves to be and is accordingly dismissed *in limine* without notice to the other side. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge