

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Second Appeal No.408 of 2009**

- Thomas, S/o. Joseph, aged about 50 years, Caste-Uraon, R/o. Village Tangardih, Tahsil- Bagicha, Distt. Jashpur (CG)

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

1. Smt. Kolestica W/o. Ishwar Kerketta Aged about 40 years, Caste-Uraon, R/o. Village Musgutari, Tahsil Bagicha, Distt. Jashpur (CG) (Defendant No.1)
2. Ku. Rajkishori, D/o. Joseph, aged about 36 years, Caste Uraon, R/o. Village Tangardih, Tahsil Bagicha, Distt. Jashpur (CG) (Defendant No.2)
3. Mst. Sabina @ Sukhni W/o. Joseph, aged about 71 years, Caste Uraon, R/o. Village Tangardih, Tahsil Bagicha, Distt. Jashpur (CG) (Defendant No.3)
4. The State of Chhattisgarh, through Collector Distt. Jashpur (CG)

**---Respondents**


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| For Appellant       | :Shri AK Prasad, Advocate             |
| For Respondent No.4 | :Ku. Veena Nair, Dy. Advocate General |

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**Hon'ble Shri Justice Sanjay K. Agrawal****Order on Board****02.7.2020.**

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 dismissed the suit of the plaintiff on the ground that the plaintiff could not prove the custom of Uraon caste by which the daughters and widow do not get any share in the property of their father/husband and only they have the right of maintenance, thereby recorded a perverse finding, 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 has filed suit for declaration of title and possession in respect of suit land situated at village Tangardih, Tahsil Bagicha, Distt. Jashpur. The respondents 1 & 2 /defendants 1 & 2 are the daughters and respondent No.3/defendant No.3 is the widow of one Joseph. After the death of Joseph, the plaintiff being his son brought the suit for declaration of title and possession in respect of suit land on the ground that they belong to Uraon caste and are members of Scheduled Tribe and their caste daughters do not get any share in the property of their father and widow is entitled only for maintenance. The trial Court after framing the issues and recording the evidence, dismissed the suit of the

plaintiff holding that the plaintiff could not prove that being a son he is only having right over the properties of his father, the daughters and the wife are not having any right. Against this, the plaintiff filed appeal before the first appellate Court. Both the Courts below have concurrently and categorically appreciated the oral and documentary evidence and recorded that the plaintiff has failed to prove the valid custom of the Uraon caste by which they belong, that daughters do not get any share in the property of their father and the widow is entitled for only maintenance by leading evidence.

6. The finding recorded by both the Courts below holding that the plaintiff has failed to prove the valid custom by which daughters do not get share of the property of their father is a finding of fact based on evidence which is neither perverse nor contrary to the record and does not involve any substantial question of law in this regard.

7. 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**