

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No.353 of 2010**

- Kalpnath S/o. Mataprasad (wrongly mentioned as Madhv Prasad) aged about 52 years, Caste Manjhi R/o. Village Pendra Tahsil Pendra Road, Distt. Bilaspur (CG)

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

1. Anil Kumar S/o. Rajendra Prasad Binda, aged about 31 years, R/o. Village Lohatariyapara, Pendra, Tahsil Pendra Road, Distt. Bilaspur (CG)(CG)
2. Rajendra Prasad S/o. Jaikaran Bind, aged about 56 years, R/o. Village Lohatariyapara, Pendra, Tahsil Pendra Road, Distt. Bilaspur (CG)

---Respondents/Defendants

For Appellant	:Shri Rakesh Pandey, Advocate
For Respondents	: None

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****30.9.2020.**

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 plaintiff/appellant against the impugned judgment and decree passed by the first appellate Court affirming the judgment and decree of the trial Court by which the trial Court has dismissed the suit filed by the plaintiff.

3. Learned counsel for the appellant/plaintiff submits that both the Courts below have concurrently erred in holding that the agreement to sale (Ex-P/35) for a cash consideration of Rs.4800/- executed by Purushottam Lal in favour of plaintiff's mother Bipti Devi has not conferred any title to his mother, therefore, no title was acquired by the plaintiff's mother and thereby recorded a finding which is perverse to the record and the appeal involves substantial question of law for determination and it be admitted for hearing.

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

5. The plaintiff's suit for permanent injunction as well as mandatory injunction was dismissed by the trial Court holding that agreement to sale would not confer any title to the plaintiff's mother, which was affirmed by the first appellate Court.

6. Section 54 of the Transfer of Property Act, 1882 defines the agreement to sale/contract for sale of immovable property is a contract that a sale of such property shall take place on terms settled between the parties. It does not, of itself, create any interest in or charge on such property.

7. In view of the above stated provision contained in Section 54 of the Transfer of Property Act, the finding that the plaintiff is not entitled for decree on the basis of agreement to sale is a finding based on

correct legal position which is neither perverse not contrary to the record.

8. 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**

Bini