

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 310 of 2009**

1. Deep Singh S/o Kapil Singh, Aged about 30 years,
R/o Village Bemetara, District Durg,
Chhattisgarh.
2. Lokram S/o Kapil Singh, Aged about 53 years, R/o
Village Bemetara, District Durg, Chhattisgarh.
3. Chandra Shekhar S/o Kapil Singh (died) through
LRs. :-
 - a. Smt. Chandani W/o Late Chandra Shekhar, Aged
about 55 years.
 - b. Nitin S/o Late Chandra Shekhar, Aged about 40
years.
 - c. Vipin S/o Late Chandra Shekhar, Aged about 30
years.
 - d. Nihit S/o Late Chandra Shekhar, Aged about 30
years.No. a to d R/o Ward No. 20, in front of house of
Mr. M.R. Verma Advocate at Village Bemetara,
District Bemetara, Chhattisgarh.
4. Suniti Bai D/o Kapil Singh, Aged about 50 years,
R/o Village Bemetara, Tahsil Bemetara, District
Durg, Chhattisgarh.

---Appellants/Plaintiffs

Versus

1. State of Chhattisgarh, Through the Collector, Durg,
Chhattisgarh.
2. The Collector, Durg, Chhattisgarh.

3. Competent Authority, Sub-Divisional Officer,
Bemetara, District Durg, Chhattisgarh.

--- Respondents/Defendants

For Appellants :- Mr. R.K. Pali, Advocate
For State :- Mr. Chandresh Shrivastava, Dy. A.G.

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

05/08/2020

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellants/plaintiffs under Section 100 of CPC. By the impugned judgment and decree, learned first appellate Court has affirmed the judgment and decree passed by the trial Court dismissing the suit of the plaintiffs for declaration of title and permanent injunction.

2. Mr. R.K. Pali, learned counsel for the appellants/plaintiffs, would submit that both the Courts below are absolutely unjustified in dismissing their suit by recording the findings which are perverse and contrary to the oral and documentary evidence on record, as such, the appeal deserves to be admitted by formulating substantial question of law for hearing.

3. In the regular ceiling proceeding drawn by the competent authority under the provisions of M.P.

Ceiling on Agricultural Holdings Act, 1960 against the deceased plaintiffs Kapil Singh and Gayabai, they were held jointly entitled for 195 acres of land, which was affirmed by the appellate authority and the surplus land was directed to be vested with the State. Plaintiff No. 1 Deep Singh and plaintiff No. 4 Sunitibai were not found entitled, however, plaintiff No. 3 Chandra Shekhar was found to be major unmarried son held entitled for 30 acres of land.

4. Plaintiffs filed the suit for declaration that plaintiff No. 1 is eligible to hold 30 acres of land, plaintiff No. 3 is entitled to hold 54 acres of land and plaintiff No. 4 is entitled for 30 acres of land and accordingly, decree be granted in their favour.

5. Learned trial Court, after appreciating the oral and documentary evidence on record, dismissed the suit as barred by Section 46 of the Act as well as on merits. Learned first appellate Court held the suit maintainable and not barred by Section 46 of the Act, but dismissed the appeal on merits.

6. After appreciating the oral and documentary evidence on record, learned trial Court has clearly held that plaintiffs are not entitled to hold the

further land and dismissed the suit, which was affirmed by the first appellate Court. The findings recorded by both the Courts below are findings of fact based on evidence available on record. It is neither perverse nor contrary to record.

7. This second appeal is devoid of merits as no substantial question of law is involved. It deserves to be and is accordingly dismissed *in limine* without notice to the other side. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet