

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No.156 of 2010**

- Sukhnandan Rajput S/o Dileshar Rajput, aged about 34 years, R/o Village-Ramtala, PS -Pathariya, Tahsil-Mungeli, Distt.-Bilaspur (CG)

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

1. Dileshar Rajput, S/o. Shiv Sahay Rajput, aged about 55 years, R/o. Village Ramtala, Tahsil Mungeli, Distt. Bilaspur (CG)
2. Niranjana Rajput, S/o. Shiv Sahay Rajput, Aged about 45 years, R/o. Village Ramtala, Tahsil Mungeli, Distt. Bilaspur (CG)
3. State of Chhattisgarh, Through Collector, Bilaspur Distt. Bilaspur (CG)

---Respondents/Defendants

For Appellant	:Shri Sourabh Sahu, Advocate
For Respondent No.2	: Smt. Seema Singh, Advocate
For Respondent No.3/State	: Ku. Veena Nair, Dy. Advocate General

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****23.9.2020.**

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 there is a partition between the plaintiff's father Dileshar and defendant No.2 Niranjana and the suit property came in the share of Dileshar which he has further given to the plaintiff in family arrangement and recorded a finding which is perverse to the record and the appeal involves substantial question of law for determination.

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

5. The plaintiff filed a suit that the suit property was held by his grand-father Shiv Sahay who has two sons i.e. defendant No.1 Dileshar and defendant No.2 Niranjana and Shiv Sahay has partitioned the suit land during his life time between his two sons defendant No.1 & 2 and the suit property came in the share of defendant No.1 which he has given by way of family partition to the plaintiff. But both the Courts below on appreciation of the oral and documentary evidence recorded a finding that the plaintiff has failed to prove partition between defendants 1 & 2 as it was admittedly the property of Shiv Sahay, father of defendants 1 & 2 and dismissed the suit which has been affirmed by the first appellate Court. The finding recorded by the both the Courts below holding that the plaintiff has failed to prove the partition between

defendants 1 & 2, is a finding of fact based on evidence available on record which is neither perverse nor contrary to the record and the appeal does not involve any substantial question of law for determination.

6. 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

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