

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 392 of 2010**

1. Somari W/o Late Sadaram, 64 years.
2. Sukku S/o Late Sampat, 24 years.
3. Bhagat S/o Late Sadaram, 39 years.
4. Dashrath @ Chingdu S/o Late Sadaram, 35 years.

All R/o Village Kachnar, Baiyaguda, Tahsil Jagdalpur, Distt. Bastar, Chhattisgarh.

---Appellants/Plaintiffs

Versus

1. Devendra S/o Madhura Baghel, 16 years, Through Mother and natural guardian Smt. Fagni W/o Late Madhura Baghel, 48 years, R/o Village Dongriguda, Kundalgaon, Tahsil Jagdalpur, Distt. Bastar, Chhattisgarh.
2. State of Chhattisgarh, Through Collector, Bastar, Jagdalpur, Chhattisgarh.

---- Respondents/Defendants

For Appellants	:- Mr. Prafull N. Bharat, Advocate
For Respondent 1	:- Mr. P.K. Tulsiyan, Advocate
For State	:- Mr. Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

03/09/2020

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 appellants/plaintiffs under Section 100 of the CPC against the impugned judgment and decree passed by the first appellate Court affirming the judgment and decree by which the trial Court dismissed the suit of the plaintiffs.

3. Mr. Prafull N. Bharat, learned counsel for the appellants/plaintiffs, would submit that the concurrent finding recorded by both the Courts below that the sale deed dated 19/05/1998 (Ex. D/1) executed by Sadaram in favour of defendant No. 1 is a real and outright sale and not mortgage executed for security of loan, as such, the appeal deserves to be admitted by formulating substantial question of law for determination.

4. The suit property was held by Sadaram i.e. husband of plaintiff No. 1 and father of plaintiffs No. 2 to 4. He sold the suit property to defendant No. 1 in the capacity of karta of the family by registered sale deed dated 19/05/1998 (Ex. D/1) for a cash consideration of Rs. 3,000/- and delivered the peaceful possession thereof. Subsequently, after six years, on 07/10/2004, plaintiffs filed a suit for declaration of their title, possession and for declaring the sale deed dated 19/05/1998 (Ex.

D/1) as null and void wherein defendant No. 1 set up a plea that the sale made by Sadaram in his favour by sale deed (Ex. D/1) is a real and outright sale.

5. Learned trial Court, after evaluating the oral and documentary evidence on record, dismissed the suit which was then upheld by the first appellate Court in the appeal filed by the plaintiffs.

6. The finding recorded by both the Courts below concurrently holding that the sale deed dated 19/05/1998 (Ex. D/1) executed by Sadaram in favour of defendant No. 1 is a real and outright sale is a finding of fact based on evidence available on record which does not suffer from any illegality or perversity.

7. The second appeal, being devoid of merits, deserves to be and is accordingly dismissed in limine without notice to the other side. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet