

HIGH COURT OF CHHATTISGARH, BILASPUR
Second Appeal No.455 of 2009

Ratan Das, S/o. Late Hardas Sonwani, Aged about 70 years, R/o. Village Devda, Post Lakholi, Tahsil Arang, District Raipur (CG)

---- Appellant/Plaintiff

Versus

Bharat Bhushan, S/o. Late Jugal Kishore Dubey, Aged about 25 years, R/o. Village Devda, Post Lakholi, Tahsil Arang, District Raipur (CG)

---- Respondent/Defendant

For Appellant / Plaintiff:-

Mr.Manoj Paranjape and Mr.Anurag
Singh, Advocates

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

15/07/2020

1. Proceedings of this matter have been taken up through video conferencing.
2. Heard this second appeal on the question of admission and formulation of substantial question of law preferred by the appellant/plaintiff.
3. By the impugned judgment and decree, the first appellate Court has dismissed the appeal preferred by the plaintiff affirming the judgment and decree of the trial Court dismissing the suit for declaration of title.
4. Mr.Anurag Singh, learned counsel for the appellant/plaintiff, would submit that both the Courts below are absolutely unjustified in dismissing the suit of the plaintiff for

declaration of title, by recording a finding which is perverse to record and appeal deserves to be admitted by formulating the substantial question of law for determination.

5. The plaintiff brought a suit only for declaration of title stating inter-alia that he entered into agreement to sell in the year 1982 and purchased the suit land from one Jugal Kishore, nearest relative of the defendant and he is in possession since then. It has been further stated that the plaintiff is in possession of the suit land for last 23 years and has perfected his title by way of adverse possession, which the defendant opposed by filing written statement.
6. The trial Court upon appreciation of oral and documentary evidence available on record, by its judgment and decree dated 12.05.2009, dismissed the suit holding that the plaintiff is not title-holder and possession holder of the suit land, Jugal Kishroe (father of the defendant) has never alienated the suit land in favour of the plaintiff and only other lv and bearing Khasra No.266/4 area 0.429 hectare was sold by one Jugal Kishore in favour of the plaintiff, as such, the plaintiff is neither title-holder nor possession holder of the suit land, which has been affirmed by the first appellate Court.

7. Concurrent finding recorded by two Courts below that the plaintiff has not perfected his title by way of adverse possession is finding of fact based on evidence available on record, particularly when the plaintiff has stated that he came into possession of the suit land by agreement to sell (filed photocopy only), as such, possession, if any, pursuant to agreement to sell will always be permissive possession, it will not be adverse possession. I do not find any perversity or illegality in the finding recorded by two Courts below.

8. Accordingly, the second appeal being devoid of merit is liable to be and is hereby dismissed in *limine* without notice to other side.

Sd/-
(Sanjay K. Agrawal)
Judge

B/-