

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 333 of 2010**

Smt. Jot Kunwar, W/o Baijnath Bharti, Aged about 55 years, R/o Village Kochhila, Tahsil Baikunthpur, District Korea, Chhattisgarh.

---Appellant/Defendant No. 1

Versus

1. Tulsigiri S/o Karngiri, Aged about 34 years.

2. Kripalgiri S/o Karngiri, Aged about 24 years.

Both are R/o Village Chhidiya, Tahsil Baikunthpur, District Korea, Chhattisgarh.

3. State of Chhattisgarh, Through the Collector, Baikunthpur, District Korea, Baikunthpur, Chhattisgarh.

--- Respondents/Plaintiffs

For Appellant :- Mr. Shobhit Koshta, Advocate
For State :- Mr. Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

26/08/2020

1. Proceedings of this matter have been taken up for hearing through video conferencing.

2. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellant/defendant No. 1 under Section 100 of the CPC. By the impugned judgment and decree, learned first appellate Court affirmed the judgment

and decree of the trial Court decreeing the suit of the plaintiffs for declaration of title and permanent injunction.

3. Mr. Shobhit Koshta, learned counsel for the appellant/defendant No. 1, would submit that both the Courts below have erred in holding that the sale deeds (Ex. P/5 and P/6) executed by the father of defendant No. 1 in favour of the plaintiffs are valid and in accordance with law as the suit property was the ancestral property in the hands of defendant No. 1's father and he could not have alienated the suit property in favour of the plaintiffs, as such, the appeal be admitted by formulating substantial question of law in this regard.

4. The father of defendant No. 1 namely Narayan Giri sold the suit property to the plaintiffs and executed registered sale deeds (Ex. P/5 and P/6) in their favour on 17/11/2004 and thereafter, in mutation proceedings their names were removed from the revenue records which led to the filing of the suit by the plaintiffs seeking declaration of title and permanent injunction.

5. Learned trial Court, upon evaluation of oral and documentary evidence on record, recorded a finding

on the basis of the testimony of defendant No. 1's father D.W. 2 that the title has been passed in favour of the plaintiffs by the sale deeds (Ex. P/5 and P/6) and the said sale deeds are valid and in accordance with law which was affirmed by the first appellate Court in the appeal preferred by defendant No. 1.

6. The said finding recorded by both the Courts below that title over the suit property has been passed in favour of the plaintiffs after the execution of sale deeds (Ex. P/5 and P/6) by defendant No. 1's father in their favour is a finding of fact based on evidence available on record which is neither perverse nor contrary to the record.

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