

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 409 of 2008**

1. Ramanuj, Son of Chaitu Ram Verma, aged about 45 years,
2. Champu, S/o. Krishna Verma, aged about 35 years,
3. Gopi, S/o Krishna Verma, aged about 33 years,
4. Ishwari, S/o Ramdayal Verma, aged about 82 years,
5. Chameli, D/o. Late Krishna, aged about 42 years,
6. Sarita, D/o. Late Krishna, aged about 35 years,

(Appellants No. 2, 5 and 6 are legal representatives of the late Krishna already party in the case)

All are R/o. Village Kurumghata, P.S. Bodla, District Kabirdham (C.G.)

-----Appellants

Versus

1. Khelawan, S/o. Dukhi Ram Sahu, aged about 45 years,
2. Balla Sahu, S/o. Dukhi Ram Sahu, aged about 43 years,

Respondents No. 1 & 3 are legal representative of respondent No. 1 Late Tijiya Bai.

Both are R/o. Village Bodla, Tahsil Kawardha, District Kabirdham (C.G.)

3. Bhaglu, S/o. Mani Ram Kewat, aged about 28 years,
4. Kala Ram, S/o Mani Ram Kewat, aged about 28 years,
5. Sukha Bai, W/o. Ramanuj Verma, aged about 42 years,

Respondent No. 3 to 5 are R/o. Kusumghata, P.S. Bodla, District Kabirdham (C.G.)

6. State of Chhattisgarh, Through : Collector, District Kabirdham (C.G.)

-----Respondents/Plaintiffs

For Appellants : Mr. J.K. Shastri, Advocate.
 For Respondents No. 1 to 5 : Mr. Basant Dewangan, Advocate.
 For Respondent No. 6 : Ms. Anjali Singh Chouhan, PL

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

19/02/2020

(1) Heard on the question of admission and formulation of substantial question of law in this second appeal preferred by plaintiffs under Section 100 of the Code of Civil Procedure, 1908 questioning the impugned judgment & decree dated 29th March, 2008 passed by District Judge, Kabeerdham (Kawardha) in Civil Appeal No.32-A/2007 affirming the judgment & decree dated 22.08.2007 passed by First Civil Judge, Class-I, Kawardha in Civil Suit No. 11-A/2006, dismissing the suit finding no merit.

(2) Five plaintiffs brought a suit for declaration of title and permanent injunction stating *inter alia* that they are owner, title holder and possession holder of the suit land bearing Khasra No. 103, area 3.36 acres,

which was wrongly entered into the name of late Johani, predecessor-in-title of defendants, as such, Smt. Aghniya, widow of Johani had no right and title to sell the suit land by registered sale deed dated 31.03.1987 in favour of Bhaktu and Kalaram, as such, the appellant/plaintiffs be declared title holder and possession holder of the suit land. That suit was dismissed by the trial Court on merits as well as on the ground of limitation, which the first appellate Court has affirmed holding that the trial Court has rightly dismissed the suit, against which this second appeal has been preferred.

(3) Learned counsel appearing for the appellants/plaintiffs would submit that both the courts below have committed legal error in holding that plaintiffs are not the title holder of the land bearing Khasra No. 103, area 3.36 hectare as in the re-settlement held in the year 1955-56, name of late Johani, predecessor-in-title of the defendants has wrongly been recorded over the suit land, as such, they are title holder of the suit land.

(4) The trial Court as well as first appellate Court both have categorically recorded a finding that the plaintiffs have failed to adduce oral and documentary evidence to demonstrate that the suit land was

erroneously registered in the settlement in favour of the Johani, predecessor-in-title of the defendants and plaintiffs are title holder of the suit land and they have also failed to establish the bonafide error in the settlement proceeding by which the suit land came to be recorded in the name of Johani, predecessor-in-title of defendants. Likewise, both the courts below have clearly held that suit is barred by limitation as the dispute with regard to suit land commenced in the year 1994 i.e. from the mutation in favour of Bhaktu and Kalawati on the basis of sale deed dated 31.03.1987, but the suit was filed belatedly on 10.05.2000 and suit is only for declaration of title and even no possession has been sought for. The above stated findings recorded by both the courts below on the question of title, possession and limitation are the findings of fact based on material available on record and I do not find it either perverse and contrary to the record and no question of law much less substantial question of law is involved in this appeal.

(5) Accordingly, the second appeal, being devoid of merit, is liable to be and is hereby dismissed in *limine* without notice to other side. No cost(s).

(6) Consequently, I.A. No. 2/2000 filed by the appellants also stands disposed off.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

