

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 381 of 2009**

1. Smt. Radhika, Aged about 86 years, W/o Late Murari Mohan

2. Gourhari, aged about 42 years, S/o Murari Mohan

3. Ashok, aged about 40 years, S/o Murari Mohan

4. Ramkrishna, aged about 36 years, S/o Murari Mohan

All R/o P.V. No. 89 Vivek Nagar, Tahsil Pakhanjore, Distt. Kanker (C.G.)

----Appellants/Plaintiffs

Versus

1. Sudhir Vishwas, aged about 55 years, S/o Sukhchand, R/o P.V. 89 (Vivek Nagar), Tahsil and Thana Pakhanjore, Distt. Kanker

2. State of Chhattisgarh through Collector, Kanker.

----Respondents/Defendants

For Appellants/Plaintiffs

: Mr. Parag Kotecha, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

16/07/2020

(1) Heard on the question of admission and formulation of substantial question of law in this second appeal under Section 100 of the Code of Civil Procedure, 1908 preferred by appellants/plaintiffs against the impugned judgment and decree passed by the first appellate Court affirming the judgment and decree of the trial court dismissing the suit.

(2) Learned counsel appearing for the appellants/plaintiffs would submit that both the courts were absolutely unjustified in dismissing the suit filed by the plaintiff by

recording a finding which is perverse and contrary to the record and, therefore, second appeal deserves to be admitted for hearing by formulating substantial question of law.

(3) Plaintiffs instituted a suit stating that under the Dand Karanya Project, patta bearing Khasra No. 321, area 0.37 was granted to them but by mistake or error in the revenue records, it has been mentioned as Khasra No. 320, therefore, the revenue records be corrected and also claimed possession as defendant No. 1 has encroached upon the said land, which the trial Court dismissed. In an appeal preferred by the plaintiff under Section 96 of the CPC there-against, learned first appellate court affirmed the judgment and decree of the trial court by dismissing the appeal.

(4) Upon grant of land by the competent authority to the plaintiffs under Dand Karanya Project, the plaintiffs filed an application under Section 89 of the Land Revenue Code, 1959 for correction in the revenue records / map, which was rejected by the Sub Divisional Officer by order dated 30.12.2000 vide Ex.D-5 and which has been affirmed by the Collector in an appeal filed by the plaintiffs.

(5) The order passed by the SDO and Collector has not been assailed by the plaintiffs in a civil suit filed by them and, therefore, the same has become final holding that there is no mistake / error in the revenue records and plaintiff was granted patta bearing Khasra No. 320, areas 0.37, as such, the plaintiffs ought to have questioned the order of SDO as affirmed by the Collector rejecting their application for correction in the revenue records, which they did not assail, as such the finding recorded by SDO and Collector under Section 89 of the Land Revenue Code holding that plaintiff

was granted patta bearing Khasra No. 320, area 0.37 has become final. In that light, both the courts below have rightly and concurrently dismissed the suit filed by the plaintiffs finding no merit, which is neither perverse nor contrary to the record. I do not find any substantial question of law involved in this second appeal.

(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

D/-

