

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 76 of 2009**

1. Tahaluram S/o Umaraon Singh Chandrakar, Aged about 45 years, R/o Village Arand, Tahsil and District Mahasamund, Chhattisgarh.
2. (A). Meena Bai W/o Shiv Kumar Chandrakar, Aged about 35 years, R/o Village Belsonda, Post Belsonda, Tahsil and District Mahasamund, Chhattisgarh.

(B). Reena Bai W/o Rajen Chandrakar, Aged about 31 years, R/o Village Bharar, Post Jamgaon, Tahsil Patan, District Durg, Chhattisgarh.

(c). Tukesh Chandrakar S/o Tahaluram Chandrakar, Aged about 25 years, R/o Village Arand, Tahsil and District Mahasamund, Chhattisgarh.

---Appellants/Defendants**Versus**

1. Nandlal S/o Bhagwani Gond, Aged about 30 years.
2. Jailal S/o Bhagwani Gond, Aged about 28 years.

Both are R/o Arand, Tahsil and District Mahasamund, Chhattisgarh.

--- Plaintiff

3. State of Chhattisgarh, through Collector, Mahasamund, District Mahasamund, Chhattisgarh.

--- Respondents

For Appellants	:- Mr. Manoj Paranjpe, Advocate
For State	:- Mr. Ravi Bhagat, Dy. G.A.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****01/07/2020**

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/defendants under Section 100 of the CPC against the impugned judgment and decree of the first appellate Court affirming the judgment and decree by which trial Court decreed the suit of the plaintiffs for declaration of title and permanent injunction.
3. Mr. Manoj Paranjpe, learned counsel for the appellants/defendants, would submit that both the Courts below are absolutely unjustified in decreeing the suit of the plaintiffs by recording a finding which is perverse and contrary to the record as defendant No. 1 has not received the full consideration amount from the plaintiffs on sale of suit property by sale deed dated 21/01/1994, as such, the appeal deserves to be admitted by formulating substantial question of law in this regard.
4. Learned trial Court as well as the first appellate Court, both have clearly held that defendant No. 1 – Tahaluram sold the suit property in favour of plaintiffs by registered sale deed dated

21/01/1994, thereby, title over the suit property has been passed in favour of the plaintiffs, as such, plaintiffs are entitled for decree for declaration of title and permanent injunction, which has rightly been held as, if the claim made by defendant No. 1 is valid that full consideration amount has not been paid to him by the plaintiffs, the remedy available to him is to file a suit for consideration amount, but it cannot be held that title has not been passed in favour of the plaintiffs. As such, I do not find any perversity or illegality in the said finding recorded by both the Courts below holding that plaintiffs are entitled to declaration of title and permanent injunction over the suit property and it does not give rise to any substantial question of law.

5. 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