

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No.376 of 2008**

Bikani Bai aged 35 yrs, W/o Shivnath Panika Gram-Saindha : Tah-Manendragarh, Distt-Korea (CG)

----- Appellant/Defendant No.1

Versus

1. Sumaria Bai @ Lavango Panika aged 45 yrs, w/o Devnarayan, Gram Ujiyarpur, Tah-Manendragarh Distt - Korea (CG)

----- Plaintiff

2. State of CG Through the Collector, Distt-Korea (CG)

----- Respondents/Defendant No.2

For Appellant/Defendant No.1:

Mr. Anurag Dayal Shrivastava, Advocate

For Respondent No.2:

Mr. Anshuman Rabra, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

13.02.2020

1. Heard on admission and formulation of substantial question of law in the second appeal preferred by the appellant/defendant No.1.
2. By the impugned judgment and decree, the Additional District Judge (F.T.C), Manendragarh in Civil Appeal No.20A/2007 has partly reversed the judgment and decree of the Civil Judge Class-I, Manendragarh in Civil Suit No.22A/2001 dismissing the suit and held that the plaintiff is entitled for 1/2 share in the suit property left by deceased Biran and succeeded by

Bechu.

3. The suit property was originally held by Biran. He had three sons namely Bechu, Daddhi and Thakur. Bachu and Daddhi died issueless. Plaintiff-Sumariya is daughter of Biran and defendant No.1 is daughter of Thakur. Plaintiff-Sumariya filed a suit for declaration of title, partition and separate possession over the property of her father Biran through succession and over the property of Bechu through Will, which is said to have been executed in her favour on 27.7.94 by Bechu, which the trial Court did not accept holding that on 27.7.94 itself Bechu has died. On appeal being preferred, the first appellate Court affirmed that finding, but the first appellate Court granted decree in favour of the plaintiff holding that so far as Bechu's share is concerned, she being Class II, Entry II, Serial No.IV heir being sister of Bechu would succeed the property of Bechu, against which, this second appeal has been preferred.

4. Mr.Anurag Dayal Shrivastava, learned counsel for the appellant/defendant No.1, would submit that the first appellate Court is absolutely unjustified in granting decree in favour of the plaintiff by recording a finding which is perverse and contrary to record and appeal deserves to be admitted by formulating the

substantial question of law for determination.

5. The plaintiff claimed the property of Bechu through Will, which both the Courts below did not accept finding the Will to be forged, but the first appellate has rightly recorded a finding that the plaintiff being sister of Bechu and Class II heir of Bechu would succeed the property of Bechu and has rightly granted decree in her favour, which is neither perverse nor contrary to record. I do not find any merit in this second appeal and even I do not find any substantial question for determination of this second appeal.
6. 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/-