

HIGH COURT OF CHHATTISGARH, BILASPURSecond Appeal No.467 of 2007

1. Smt. Shanti Bai, Widow of Late Shri Dhanaram, aged about 45 years, Caste Yadav, R/o Yadavpara, Barpali, Champa, Tahsil Champa, District Janjgir-Champa (C.G.)
2. Bangla (died) through legal representatives
 - 2-a) Smt. Dhanwantin Yadav, Widow of Late Bangla @ Jawahar Lal Yadav, aged about 36 years.
 - 2-b) Ku. Vanshika Yadav, D/o Late Bangla @ Jawahar Lal Yadav, aged about 8 years. (Minor)
 - 2-c) Amit Kumar Yadav, S/o Late Bangla @ Jawahar Lal Yadav, aged about 7 years. (Minor)

All residents of Yadavpara, Barpali, Champa, Tahsil Champa, District Janjgir Champa (C.G.)

Appellants No.2-b & 2-c are minor through the natural guardian mother namely Smt. Dhanwantin Yadav, Widow of Late Bangla @ Jawahar Lal Yadav.
3. Suresh, S/o Late Shri Dhanaram, aged about 20 years, Caste Yadav, R/o Yadavpara, Barpali, Champa, Tahsil Champa, District Janjgir-Champa (C.G.)

(Defendants)
---- Appellants

Versus

1. Horilal (died) through legal representatives
(Plaintiff)
 - 1(A) Mahendra, S/o Hori Lal Yadav, aged about 40 years;
 - 1(B) Rajendra, S/o Hori Lal Yadav, aged about 48 years;
 - 1(C) Brihaspati Bai, D/o Hori Lal Yadav, aged about 48 years;
 - 1(D) Shanti Bai (died and deleted)

Respondents No.1(A) to 1(C) are residents of Village Torga, Tahsil Janjgir, District Janjgir-Champa (C.G.)
2. State of Chhattisgarh, Through the Collector, Bilaspur (now Janjgir-Champa) (C.G.)

(Defendant No.4)
---- Respondents

For Appellants/Defendants: Mr. V.K. Pandey, Advocate.

For Respondents No.1(A) to 1(C)/LRs of the plaintiff: -
Mr. Sourabh Sharma, Advocate.

For Respondent No.2/State: -
Mr. Ravi Kumar Bhagat, Deputy Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Judgment On Board

08/07/2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. Heard on the application under Order 23 Rule 1 (proviso) of the CPC for grant of leave filed on behalf of the appellants / defendants.
3. The application is allowed.
4. Also heard on the application under Order 23 Rules 1 & 3 of the CPC filed on behalf of both the parties.
5. The appeal has been admitted for final hearing on 2-7-2010.
6. Three defendants i.e. appellants No.1 & 3 herein and LR of appellant No.2 herein and LR of the original plaintiff Horilal / private respondents herein, have filed application that the matter has been compromised between the parties and as per the compromise application, LR of the plaintiff / private respondents herein would get 8 / 25 (32%) share and the defendants / appellants herein would get 17 / 25 (68%) share in the suit property shown in Schedules 1 & 2 of the plaint except Khasra No.181 measuring area 0.50 acre situated at Village Barpali, Patwari Halka No.2, Tahsil Champa mentioned in Schedule 1; Khasra No.2063 measuring area 0.02 acre situated at Village Sheoni, Patwari Halka No.3, Tahsil Champa; and House No.22, Sheet No.31, Plot No.33, area 377 sq.mtrs., situated at Municipal Council Champa, Barpali, Patwari Halka No.2 mentioned in

Schedule 2 of the plaint. Paragraphs 2 and 3 of the compromise application state as under: -

“2) That, as per the compromise the plaintiffs / respondents have agreed to get 8/25 (32%) and defendants / appellants have agreed to get 17/25 (68%) in the suit property vide scheduled 1 & 2 except Khasra No.181 measuring area 0.50 acre situated at village Barpali, P.H.No.2, Tahsil Champa mentioned in schedule – 1, Khasra No.2063 measuring 0.02 acre situated at village Sheoni, P.H.No.3, Tahsil Champa and House No.22, Sheet No.31, Plot No.33, Area 377 sq.mtr. situated at Municipal Council, Champa, Barpali. P.H.No.2, Schedule – 2 attached with the plaint. Copy of the Schedules is enclosed herewith as Document No.D/1.

3) That, the plaintiff have abandoned 17/25 (68%) share in the aforesaid suit property giving the same in favour of the defendants and the defendants have left 8/25 (32%) in favour of the plaintiff.”

7. In support of the application, on behalf of the plaintiff, Mahendra Yadav, Rajendra Yadav and Brihaspati Bai have been examined, whereas, on behalf of the defendants, Shanti Bai, Dhanwantin Yadav and Suresh have been examined. They have unequivocally stated before the Additional Registrar (Judicial) that without pressure or fear they have compromised the dispute as they are near relatives and in order to maintain relations, they have compromised the dispute.
8. Today, when the matter is taken-up, Mr. V.K. Pandey, learned counsel appearing for the appellants herein / defendants, would submit that since the matter has been compromised in terms of the compromise application and the dispute has been settled amicably, the compromise application deserves to be allowed and compromise decree be passed.
9. Mr. Sourabh Sharma, learned counsel appearing for respondents No.1(A) to 1(C) herein / LRs of the original plaintiff, also has made similar submission that since the parties are near relatives and in

order to settle the dispute amicably, they have compromise the matter, therefore, the compromise application be allowed.

10. I have considered the submissions raised on behalf of both the parties and also gone through the compromise application.
11. Parties have also filed affidavits in support of the compromise application. They have been examined before the Additional Registrar (Judicial) and in their statements they have clearly stated that they have compromised the dispute amicably and compromise deed has been filed.
12. Considering the fact that parties are near relatives and they have resolved the dispute amicably in terms of the compromise application and they have defined their respective shares in the application which they have accepted in affidavits as well as in the statements made before the Additional Registrar (Judicial) and it is not shown that undue pressure or any misrepresentation has been made, it would be appropriate to accept the application filed under Order 23 Rules 1 & 3 of the CPC. Accordingly, the compromise application is allowed and compromise decree be drawn making the application under Order 23 Rules 1 & 3 of the CPC and Schedules 1 & 2 of the plaint, a part of the decree.
13. The second appeal stands finally disposed of having been compromised between the parties. Parties shall bear their own cost(s).
14. Compromise decree be drawn-up accordingly.

Sd/-
(Sanjay K. Agrawal)
Judge