

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No.223 of 2010**

Ghanshyam Yadav, 33 Yrs. S/o Late Jairam Yadav, Behind
Employment Office, Pandari, Raipur

---Appellant/Plaintiff

Versus

Abhimanyu Agrawal, 27 Yrs., S/o Sunder Lal Agrawal,
Chandrashekhar Nagar, Lakhenagar, Raipur

---Respondent/Defendant

For Appellant/Plaintiff: Mr.Raja Sharma, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

11/01/2021

1. Heard this second appeal on admission and formulation of substantial question of law preferred by the appellant/plaintiff.
2. By the impugned judgment and decree, the first appellate Court has dismissed the appeal preferred by the appellant/plaintiff affirming the judgment and decree of the trial Court dismissing the suit of the plaintiff finding no merit.
3. Mr.Raja Sharma, learned counsel for the appellant/plaintiff, would submit that both the Courts below have concurrently erred in holding that sale deed is not void and the plaintiff is not entitled for decree to this effect and dismissed the suit by recording a finding which is perverse to

record and as such, the second appeal involves substantial question of law for determination.

4. The plaintiff executed sale deed dated 24.6.2006 (Ex.P-1) in favour of the defendant by obtaining cash consideration of ₹1,49,000/- and thereafter brought a suit that sale deed dated 24.6.2006 (Ex.P-1) is void, it is obtained by playing fraud and not binding on him and decree for declaration be granted to him alleging that it was obtained on the pretext of giving loan to him. In fact, no sale deed was executed by him and therefore, it is void. The trial Court upon appreciation of oral and documentary evidence available on record by its judgment and decree dated 9.5.2008 dismissed the suit. On appeal being preferred by the plaintiff, the first appellate Court affirmed the finding of the trial Court by holding that the plaintiff is party to sale deed and he has not paid ad-valorem court fee in view of the provisions contained in Section 7(iv)(c) of the Court-fees Act, 1870 (hereinafter called as 'Act of 1870'). The plaintiff after executing sale deed dated 24.6.2006 (Ex.P-1) by getting cash consideration of ₹1,49,000/- preferred a suit that sale deed is not binding on him, it is void and obtained by fraud.
5. Both the Courts below have held that valid sale deed

has been executed by the plaintiff in favour of the defendant and title has already been passed in favour of the defendant, it is not actuated by fraud or misrepresentation and ad-valorem court fee has not been paid under Section 7 (iv)(c) of the Act of 1870. The findings recorded by both the Courts below that valid sale deed has been executed by the plaintiff in favour of the defendant and requisite court fee has not been paid are the findings of fact based on evidence available on record. It is neither perverse nor contrary to record. I do not find any illegality or perversity in the said finding and even I do not find any substantial question of law 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. No cost(s).

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-