

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 146 of 2011**

Dhankunwar Ram S/o Shri Malhu Khadiya, Aged about 65 years, Occupation Agriculturist/Carpenter, R/o village Singib Ahar, Tahsil Kunkuri, Distt. Jashpur, Chhattisgarh.

---Appellant/Defendant No. 1

Versus

1. Smt. Manorama Devi W/o Late Radheshyam Sahu, Aged about 54 years. **--- Plaintiff No. 1**

2. Amresh Prasad S/o Late Radheshyam Sahu, Aged about 35 years. **--- Plaintiff No. 2**

3. Kamlesh Prasad S/o Late Radheshyam Sahu, Aged about 30 years. **--- Plaintiff No. 3**

4. Smt. Anupama D/o Late Radheshyam Sahu, Aged about 37 years. **--- Plaintiff No. 4**

All R/o village Singibar, Tahsil Kunkuri, Distt. Jashpur, Chhattisgarh.

5. Bodo Ram S/o Injor Ram, Aged about 60 years, Occupation Agriculturist, R/o Village Singibahar, Tahsil Kunkuri, Distt. Jashpur, Chhattisgarh.

--- Defendant No. 2

6. Baijnath Ram S/o Shri Budhu Ram Khadiya, Aged about 65 years, Occupation Agriculturist, R/o Village Singibahar, Tahsil Kunkuri, Distt. Jashpur, Chhattisgarh. **--- Defendant No. 3**

7. State of Chhattisgarh Through the Collector, Distt. Jashpur, Chhattisgarh. **-- Defendant No. 4**

--- Respondents

For Appellant :- Mr. Vikram Dixit, Advocate
For State :- Mr. Ishan Verma, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

24/03/2021

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellant/defendant No. 1 under Section 100 of CPC against the impugned judgment and decree by which learned first appellate Court partly reversed the judgment and decree by which trial Court dismissed the suit but granted the counter-claim of the defendants.
2. Mr. Vikram Dixit, learned counsel for the appellant/defendant No. 1, would submit that the first appellate Court has erred in dismissing the counter-claim of the defendants by recording a perverse finding holding that Lala Bhagat died in the year 1984 and therefore, the sale deed dated 09/07/1987 alleged to have been executed by Lala Bhagat in favour of defendant No. 1 is a forged document, as such, the appeal deserves to be admitted by formulating substantial question of law in this regard.

3. The suit property was originally held by Lala Bhagat. Plaintiffs set up a plea that they have purchased the suit property from Lala Bhagat by making payment of cash consideration of Rs. 10,000/- which the trial Court did not accept, but it accepted the fact that Lala Bhagat had sold the suit property to defendant No. 1 by sale deed dated 09/07/1987 and proceeded to grant the counter-claim in favour of defendant No. 1 which was questioned by the plaintiffs in first appeal wherein learned first appellate Court came to the conclusion that Lala Bhagat had already died in the year 1984 relying upon the statement of D.W. 2 namely Baijnath and therefore, the sale deed dated 09/07/1987 allegedly executed by Lala Bhagat in favour of defendant No. 1 is a forged document and as such, partly reversed the judgment and decree of the trial Court by dismissing the counter-claim as well.

4. The aforesaid finding recorded by the first appellate Court that Lala Bhagat, who was the original owner and title-holder of the suit property, had already died in the year 1984 and therefore, the sale deed allegedly executed by

Lala Bhagat in favour of defendant No. 1 is a forged document is a finding of fact based on evidence available on record which is neither perverse nor contrary to the record and does not involve any substantial question of law for determination.

5. 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

Harneet