

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 28 of 2011**

Patiram S/o Jeetram Sahu, Aged about 60 years,
R/o Village Khapari, Patwai Halka No. 42, Tahsil
Patan, Distt. Durg, Chhattisgarh.

---Appellant/Plaintiff

Versus

1. Faguwa S/o Mehtru Marar, Aged about 40 years.
2. Gangaram S/o Mehtru, Aged about 35 years.
3. Jogesar S/o Mehtru, Aged about 33 years.

All R/o Village Khapri, Patwari Halka No. 42,
Tahsil Patan, Distt. Durg, Chhattisgarh.

4. Tahsildar, Patan, Tahsil Patan, Distt. Durg,
chhattisgarh.
5. State of Chhattisgarh, Through Collector, Durg,
Chhattisgarh.

--- Respondents/Defendants

For Appellant :- Mr. Pushpendra Kumar Patel, Advocate

For State :- Mr. Animesh Tiwari, Dy. A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

08/03/2021

1. Heard on admission and formulation of substantial
question of law in this second appeal preferred
by the appellant/plaintiff against the impugned
judgment and decree passed by the first
appellate Court affirming the judgment and

decree by which trial Court dismissed the suit of the plaintiff finding no merit.

2.Mr. Pushpendra Kumar Patel, learned counsel for the appellant/plaintiff, would submit that both the Courts below are absolutely unjustified in dismissing the suit of the plaintiff by recording a finding which is perverse and contrary to the record, as such, the appeal deserves to be admitted by formulating substantial question of law.

3.Learned trial Court, after evaluation of oral and documentary evidence on record, dismissed the suit holding that patta over the suit property was allotted in favour of mother of defendants No. 1 to 3 namely Phoolbasin Bai and in that capacity, Phoolbasin Bai is the title-holder of the suit property and thereafter, defendants No. 1 to 3 are title-holders of the suit property and are in its possession. It was further held by the trial Court that plaintiff has failed to prove his title over the suit property. The said findings recorded by the trial Court were affirmed by the first appellate Court in the appeal preferred by the plaintiff.

4. Both the Courts below have concurrently recorded a finding that patta over the suit land was granted in favour of defendant No. 1 to 3's mother namely Phoolbasin Bai and in that capacity, she was the title-holder of the suit property and thereafter, defendants No. 1 to 3 are in possession of the suit property and have become its title-holders. The said finding recorded by both the Courts below that defendants No. 1 to 3 are title-holders of the suit property and are in possession of the same and further plaintiff has failed to prove his title over the said suit property is a finding of fact based on evidence available on record which is neither perverse nor contrary to the record and it does not involve any substantial question of law for determination.

5. The second appeal, being devoid of merits, deserves to be and is accordingly dismissed in limine without notice to the other side.

Sd/-
(Sanjay K. Agrawal)
Judge