

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 189 of 2011**

- Sanuram Gond, S/o. Bacchan Gond, aged about 75 years, R/o. Village Parsa, PS and Tahsil Ambikapur, Distt. Surguja (CG)

---- Appellant**Versus**

1. Rupnarayan, S/o. Jugnu, aged about 35 years,
2. Jugnu S/o Bhauwa, aged about 65 years,
Both are R/o. Village Parsa, PS and Tahsil Ambikapur Distt. Surguja (CG)
3. State of Chhattisgarh Through Collector, Ambikapur, Distt. Surguja (CG)

---Respondents

For Appellant	: Shri Sunil Tripathi, Advocate
For Respondent	: None present

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****10.02.2021.**

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellant herein/defendant No.1 against the impugned judgment and decree dated 05.4.2011 passed by Second Additional District Judge, Ambikapur Surguja in Civil Appeal No.01-A/2011 affirming the judgment and decree dated 02.9.2009 passed by Third Civil Judge Class-II, Ambikapur in Civil Suit No.83A/2009 by which the trial Court decreed the suit of the plaintiffs.

2. Learned counsel for the appellant/defendant No.1 submits that both the courts below have concurrently erred in holding that the plaintiffs are in possession of the suit land and granted decree in their favour, by recording a finding which is perverse to the record, therefore, the appeal involves substantial question of law for determination and the appeal may be

admitted for hearing by formulating substantial question of law.

3. I have heard learned counsel for the appellant and went through the record with utmost circumspection.

4. Appellant/Defendant No.1 earlier filed Civil Suit No.50A/1999 questioning the validity of the gift deed executed by Baran Gond in favour of the plaintiffs which was dismissed on 05.10.2000 by the trial Court. Thereafter an appeal was preferred by defendant No.1 and the same was also dismissed on 01.08.2003. Thereafter, the plaintiffs preferred a suit for permanent injunction against Sanuram Gond-defendant No.1.

5. The trial Court after appreciating the oral and documentary evidence, held that the plaintiffs are in possession of the suit land and defendant No.1 has no right or title over the suit land . The said finding of the trial Court was affirmed by the first appellate Court. Finding recorded by both the Courts below holding that the plaintiffs are in possession of the suit land, is a finding based on material available on record, which is neither perverse nor contrary to the record and the appeal does not involve any substantial question of law .

6. 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