

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 249 of 2010**

Beerbal Das, aged 27 years, Son of Late Kamal Das, Presently residing at Dongaama, Kartala Distt. Korba (CG)

---- Appellant/Plaintiff**Versus**

1. Bharat Aluminum Company Limited through Personal Manager
2. State of Chhattisgarh Through Collector, Korba (CG)
3. Nehru Das, aged 38 years, son of Mohar Das, Tahsil and Distt. Korba (CG)

---Respondents

For Appellant	: Shri Rajesh Kumar Sharma, Advocate
For Respondent No.2/State	: Shri Ravi Bhagat, Dy. Govt. Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****13.01.2021.**

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

2. Learned counsel for the appellant/plaintiff submits that both the courts below have concurrently erred in holding that the plaintiff is not the adopted son of Kamal Das and Itwarin Bai, 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 perused the records of the Courts below.

4. Itwarin Bai was employee of Bharat Aluminum Company Limited (BALCO). The plaintiff filed suit that he being the adopted son of Kamal Das and Itwarin Bai, is entitled for the pensionary benefits of said Itwarin Bai on the basis of adoption deed dated 07.5.1990, which was opposed by the other side. Kamal Das was originally the employee of BALCO and after his death, his wife Itwarin Bai was given compassionate appointment in the said company. The trial Court after appreciating oral and documentary evidence on record dismissed the suit holding that the plaintiff failed to prove his adoption deed in accordance with law. The said finding of the trial Court was affirmed by the first appellate Court. Both the Courts below have concurrently recorded finding that the plaintiff has failed to prove that he is the adopted son of Kamal Das and Itwarin Bai and further recorded a finding that defendant No.3 Nehru Das was the nominee of late Itwarin Bai. The concurrent finding recorded by both the Courts below is a finding of fact based on evidence available on record which is neither perverse nor contrary to the record and the appeal does not involve any substantial question of law .

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