

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 25 of 2010**

Jagmohan S/o Bagas, Caste Satnami, Aged about 52 years, R/o Village Kodia, Tahsil Palari, District Raipur, Chhattisgarh.

---Appellant/Plaintiff

Versus

1. Satwati W/o Malikram, Caste Satnami, Aged about 49 years, R/o Village Boirdeeh, Tahsil Palari, District Raipur, Chhattisgarh.
2. State of Chhattisgarh, Through Collector, Raipur, District Raipur, Chhattisgarh.

--- Respondents/Defendants

For Appellant	:-	Mr. Vivek Tripathi, Advocate
For Respondent 1	:-	Mr. A.S. Rajput, Advocate
For State	:-	Mr. Ravi Bhagat, Dy. G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

21/01/2021

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 passed by the trial Court

dismissing the suit of the plaintiff finding no merit.

2. Mr. Awadh Tripathi, learned counsel for the appellant/plaintiff, would submit that both the Courts below are absolutely unjustified in dismissing the suit of the plaintiff holding that plaintiff as well as defendant No. 1, each of them is entitled for $\frac{1}{2}$ share in the suit property, as such, the appeal deserves to be admitted for hearing by formulating substantial question of law in this regard.
3. Plaintiff as well as defendant No. 1, both are son and daughter of Bagas respectively, as such, they are brother and sister. Plaintiff (brother) filed a suit against defendant No. 1 (sister) that he is entitled for $\frac{3}{4}^{\text{th}}$ share in the suit land i.e. the remaining land admeasuring 16 acres originally held by Bagas (as 16 acres out of the total 32 acres held by Bagas has already been alienated by the plaintiff).
4. Learned trial Court, after appreciation of oral and documentary evidence on record, dismissed the suit of the plaintiff holding that plaintiff has already alienated 16 acres of land out of

the total 32 acres held by Bagas and the suit land being the self-acquired property of Bagas in the hands of his children i.e. plaintiff and defedant, each one of them is entitled for $\frac{1}{2}$ share in the suit land, which was affirmed by the first appellate Court in the appeal preferred by the plaintiff.

5. The concurrent finding recorded by both the Courts below holding that plaintiff has already sold 16 acres of land which the parties inherited from their father Bagas as it was his self-acquired property, therefore, plaintiff as well as defendant No. 1, each one of them would get $\frac{1}{2}$ share in the suit land 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.
6. The second appeal, being devoid of merits, deserves to be and is accordingly dismissed *in limine* without notice to the other side. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge