

HIGH COURT OF CHHATTISGARH, BILASPURSecond Appeal No.295 of 2007

1. Paradeshi Ram, S/o Late Bhukhan Singh, aged about 30 years,
2. Lakhan Singh, S/o Late Bhukhan Singh, aged about 27 years,

Both are R/o Village Udata, Tah Katghora, Distt. Korba (C.G.)

(Plaintiffs)

---- Appellants

Versus

1. Itwar Singh, S/o Shri Jhagaru Singh, aged about 40 years,
2. Bipat Singh, S/o Jhagaru Singh, aged about 37 years,

Both Caste Kanvar, and R/o Udata, Tah. Katghora, Distt. Korba (C.G.)

3. State of Chhattisgarh, through the Collector, Distt. Korba (C.G.)

(Defendants)

---- Respondents

For Appellants/Plaintiffs: Mr. Bharat Rajput, Advocate.

For Respondent No.3/State: -

Mr. Ravi Kumar Bhagat, Deputy Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

11/06/2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellants herein / plaintiffs.
3. By the impugned judgment, the first appellate Court has dismissed the first appeal of the plaintiffs affirming the judgment and decree of the trial Court dismissing the suit filed seeking decree for declaration of title in their favour.
4. Mr. Bharat Rajput, learned counsel appearing for the appellants herein

/ plaintiffs, would submit that both the Courts below have concurrently erred in holding that the plaintiffs are not successors-in-interest of Jhagru Singh and further erred in holding that the suit land of 3.65 acres situated at Village Udata, Tahsil Katghora, District Korba, is the ancestral property of the defendants and therefore the plaintiffs are not entitled for decree of declaration of title in their favour, as such, substantial question of law be formulated for hearing the appeal.

5. Defendants No.1 and 2, both, are admittedly sons of Jhagru Singh, The plaintiffs claimed that they are also the grand-sons of Jhagru Singh, their father being Bhukhan Singh who was the son of Jhagru Singh. The trial Court after appreciation of oral and documentary evidence available on record clearly held that Bhukhan Singh – plaintiffs' father, was not son of Jhagru Singh and defendants No.1 & 2 are the only sons / successors-in-interest of Jhagru Singh, therefore, the plaintiffs are not successors-in-interest of Jhagru Singh. Further, it has been clearly held by the trial Court that the suit property is held by the defendants and they are title holders and interest holders of the suit property and the plaintiffs have no right and title over the suit property. As such, the finding recorded that the plaintiffs are not successors-in-interest of Jhagru Singh and the suit property is exclusively held by the defendants and they are the successors-in-interest of Jhagru Singh is a pure and simple finding of fact. The said finding recorded by the Courts below is a finding of fact based on the evidence available on record. It is neither perverse nor contrary to record. I do not find any perversity or illegality in the said finding warranting admission of appeal by formulating substantial question of law. I do not find any merit much less substantial question of law for determination in this appeal. The second appeal deserves to be and

is accordingly dismissed *in limine* without notice to the other side. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma