

HIGH COURT OF CHHATTISGARH, BILASPURSecond Appeal No.210 of 2010

1. Trivbuvan Singh, S/o Shri Gokaran Singh, Age 35 years, Farmer, R/o Village Sambalpur, Tahsil Navagarh, Distt. Durg.
 2. Gokaran Singh, Age 62 yrs, S/o Ripusudan Singh, Farmer, R/o Village Sambalpur, Tahsil Navagarh, Distt. Durg.
- (Defendants)
---- Appellants

Versus

1. Goverdhan Singh, Age 65 yrs, S/o Ripusudan Singh, Farmer, R/o Village Sambalpur, Tahsil Navagarh, Distt. Durg (C.G.)
(Plaintiff)
2. Mongrabai, Wd/o Firan Singh, age 70 yrs
3. Satish, S/o Firan Singh, age 38 years,
No.2 & 3 Farmer, R/o Village Botebod, Tahsil Navagarh, Distt. Durg.
4. Ku. Pukke, D/o Firan Singh, age 34 yrs, R/o Village Balod, Distt. Durg.
5. Smt. Nirmala, W/o Rajendra Singh, age 45 years, R/o Village Balod (Bazar Para), Distt. Durg.
6. Smt. Kaminee, W/o Harnarayan Singh Thakur, age 42 years, R/o Village Kalegondri, Gandai, Tahsil Chhuikhadan, Distt. Rajnandgaon (C.G.)
7. Smt. Gouri (Dead) Through Legal Heirs
 - 7a) Rajendra Singh, aged about 65 years, S/o Puran Singh,
 - 7b) Devendra Singh, aged about 55 years, S/o Puran Singh
 - 7a and b R/o Village Pamgarh, Chandipara, Tahsil Pamgarh, Distt. Janjgir-Champa (C.G.)
 - 7c) Sarita Thakur, aged about 45 years, W/o Santosh Thakur, R/o Village and Post Nandghat, Tahsil Navagarh, Distt. Bemetara (C.G.)
8. Smt. Gulab Bai, Wd/o Manbahal Singh Thakur, Age 67 years, R/o Village Doundi, Distt. Durg (C.G.)
9. Smt. Godavari (Dead) Through Legal Heirs
 - 9a) Khopendra Singh, aged about 56 years, S/o Gajrusingh Thakur, R/o Village Bandi, Post Ghangi, Distt. Bilaspur (C.G.)

9b) Smt. Kamlesh, aged about 45 years, W/o Karan Singh, R/o Near Mudagaon Para Nahar, Near Bajrang Bali Mandir, Khariyar Road, Odisha

10. State of Chhattisgarh, through Collector, Durg.

11. Smt. Rukmani Bai, Wd/o Ramji Singh, Age 70 years, R/o Village Janjee, Tahsil Seepat, Distt. Bilaspur (C.G.)

---- Respondents

For Appellants / Defendants: -

Mr. Shalvik Tiwari, Advocate.

For Respondent No.1 / Plaintiff: -

Mr. Rajkumar Pali, Advocate.

For Respondent No.10 / State: -

Mr. Animesh Tiwari, Deputy Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

15/06/2021

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellants herein / LR of defendant No.1 and defendant No.2.
2. By the impugned judgment, the first appellate Court has dismissed the appeal preferred by the plaintiff as well as preferred by the LR of defendant No.1 and defendant No.2 affirming the judgment and decree of the trial Court dismissing the suit filed by the plaintiff and the counter suit and appeal filed by the LR of defendant No.1 and defendant No.2 also.
3. Mr. Shalvik Tiwari, learned counsel appearing for the appellants herein / defendants, would submit that both the Courts below have concurrently erred in holding that the suit house shown in Schedule B of the plaint A & B is not the property held by defendants No.1 & 2 and is the property held by Firan Singh which has been obtained on succession by his son defendant No.4 Satish, by recording a finding which is perverse to record

and the appeal deserves admission by formulating substantial question of law.

4. The suit house was originally held by Ripusudan who died in the year 1989. The plaintiff is one of the sons of Ripusudan, whereas original defendants No.1 & 2 Ramji and Gokaran are also the sons of Ripusudan. Firan Singh who died in the year 2001 was also the son of Ripusudan and defendant No.3 Mongra Bai is widow of Firan Singh. Defendant No.4 Satish is son of Firan Singh and defendants No.5, 6 and 7 are daughters of Firan Singh. The plaintiff filed suit for declaration of title, partition and separate possession and also for permanent injunction stating inter alia that the suit property shown in Schedules A & B appended to the plaint, both, were held by Firan Singh and the property shown in Schedule A was partitioned among the parties and the property shown in Schedule B fell in the share of the plaintiff in oral partition which the plaintiff has been dispossessed by defendants No.3 to 7 and therefore he is entitled for possession. In the said suit, defendants No.1 & 2 also set counter-claim.
5. The trial Court after appreciation of oral and documentary evidence available on record dismissed the suit as well as the counter-suit filed by defendants No.1 & 2 and the first appeals preferred by the plaintiff and defendants No.1 & 2, both, were also dismissed by the first appellate Court. The two courts have clearly recorded a finding that so far as property mentioned in Schedule A of the plaint is concerned, there is no dispute between the parties, however, the property shown in Schedule B, particularly, A & B is the property fell in the share of Firan Singh

and after his death, it was received by his son Satish – defendant No.4 on succession. As such, it is held that the property mentioned in Schedule B i.e. A & B is held by Firan Singh and after his death, by his son Satish – defendant No.4 in which the plaintiff has no right, title and interest. The said finding has been recorded by the trial Court after due appreciation of oral and documentary evidence available on record and the said finding recorded by the trial Court has been affirmed by the first appellate Court. As such, the property shown in Schedule B i.e. A & B is the property held exclusively by Firan Singh and thereafter, after his death, it was inherited by his wife Mongra Bai and son Satish – defendants No.3 & 4, respectively. The said finding is a finding of fact based on the evidence available on record, it is neither perverse nor contrary to the record. I do not find any substantial question of law for determination of 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

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