

HIGH COURT OF CHHATTISGARH, BILASPURSecond Appeal No.77 of 2011

Smt. Lalmati Devi, W/o Tulsi Singh, aged about 60 years, Caste Rajput, R/o Kunkuri, Distt. Jashpur (C.G.)

(Plaintiff)
---- Appellant

Versus

1. Government of Chhattisgarh, Through the Collector, Jashpur (C.G.)
2. Vishvanath Singh, S/o Dhokharmali, aged about 58 years, Caste Rautiya, R/o Kunkuri, Tahsil Kunkuri, Distt. Jashpur (C.G.)
(Defendants)
---- Respondents

For Appellant / Plaintiff: -

Mr. Rishi Rahul Soni, Advocate.

For Respondent No.1 / Defendant No.1 / State: -

Mr. Ravi Kumar Bhagat, Deputy Govt. Advocate, on
advance copy.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

09/02/2021

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by the plaintiff / appellant herein.
2. By the impugned judgment, the first appellate Court has dismissed the appeal affirming the judgment & decree of the trial Court and dismissing the suit of the plaintiff.
3. Mr. Rishi Rahul Soni, learned counsel appearing for the appellant herein / plaintiff, submits that the finding recorded by the two Courts below is perverse and the appeal involves substantial question of law for determination.

4. The plaintiff questioned the show cause notice dated 3-7-2006 issued by the Collector stating inter alia that she has purchased the suit land from defendant No.2 Vishwanath in whose favour the original holder Heera Das had bequeathed the suit property by way of Will as Heera Das was granted lease / patta by the State Government by order dated 11-1-1974 and thus, she has purchased the suit land from defendant No.2 by registered sale deed dated 10-11-2004. However, the trial Court after appreciating oral and documentary evidence available on record, dismissed the suit which has been affirmed by the first appellate Court.
5. It is the case of the plaintiff that originally, the suit land was granted on patta to Heera Das on 11-1-1974 and Heera Das has executed Will in favour of defendant No.2. Heera Das died on 20-7-1990. By virtue of Will, defendant No.2 became the owner of the suit land and he executed sale deed in favour of the plaintiff on 10-11-2004. But the plaintiff in order to prove her title, ought to have filed copy of Will executed by her seller Vishwanath – defendant No.2 that it was originally bequeathed by Heera Das who was the original owner, however, the said fact of Will, though pleaded, has not been established by leading oral and documentary evidence and by filing copy of Will. As such, it cannot be held that Vishwanath was owner and title holder of the Government land and by the said sale deed, the plaintiff has acquired title over the suit land. In that view of the matter, both the Courts below are justified in dismissing the suit filed by the plaintiff. The said finding of both the Courts below is a finding of fact which is neither perverse nor contrary to

record. I do not find any substantial question of law for formulation in this second 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