

HIGH COURT OF CHHATTISGARH, BILASPURSecond Appeal No.156 of 2012

1. Budh Ram, S/o Jagtu Ram, aged about 54 years,
2. Budhu Ram, S/o Jagtu Ram, aged about 51 years,

Both are R/o Village Kumhari, Revenue Circle Lawan, Tahsil Baloda Bazar, District Raipur (C.G.)

(Defendants)
---- Appellants

Versus

1. Bishnath, S/o Janak Ram, aged about 59 years, R/o Village Kumhari, Revenue Circle Lawan, Tahsil Baloda Bazar, District Raipur (C.G.)
(Plaintiff)
2. Dhansai Sahu (Patwari), aged about 45 years, R/o Village Pawni, Tahsil Bilaigarh, District Raipur (C.G.)
3. State of Chhattisgarh, Through the Collector, Raipur, District Raipur (C.G.)

---- Respondents

For Appellants / Defendants: Mr. Pushpendra Kumar Patel, Advocate.
For Respondent No.3 / State: Mr. Ravi Kumar Bhagat, Dy. Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

28/07/2021

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 / defendants No.1 & 2.
3. By the impugned judgment, the first appellate Court has dismissed the appeal preferred by defendants No.1 & 2 affirming the judgment & decree of the trial Court decreeing the suit.

4. Mr. Pushpendra Kumar Patel, learned counsel appearing on behalf of the appellants herein / defendants No.1 & 2, would submit that both the Courts below have concurrently erred in holding that the plaintiff has proved his title over the suit land and he is entitled for declaration of title and permanent injunction by recording a finding which is perverse to the record and as such, the second appeal deserves to be admitted by formulating substantial question of law.
5. I have considered the submission made on behalf of the appellants herein / defendants No.1 & 2 and went through the record with utmost circumspection.
6. The plaintiff filed suit that he is title holder of Khasra No.757, area 0.049 hectare and it is his ancestral property in which he is in possession since his ancestors, but defendants No.1 & 2 got their names mutated in collusion with defendant No.3 which was sought to be corrected by the plaintiff by making application before the Tahsildar and which was rejected leading to threatening by defendants No.1 & 2 and which further compelled the plaintiff to file suit for declaration of title and permanent injunction which the defendants opposed holding that they are in possession. The trial Court after appreciating oral and documentary evidence available on record, recorded a finding that the plaintiff is title holder and possession holder of the suit land, it is his ancestral property and defendants No.1 & 2 have no right and title over the suit land. The said decree has been affirmed by the first appellate Court. The finding recorded by the two Courts below holding that the plaintiff is title holder and possession holder of the suit land and further he is entitled for decree of declaration of title and permanent injunction is a finding 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 admission of the second appeal. Accordingly, the second appeal deserves to be and is hereby dismissed in limine without notice to the other side. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma