

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 94 of 2011**

- Ramsurat S/o. Ramcharan Teli Aged about 62 years, R/o. At Village Jamdeie, Tahsil Surajpur Distt. Surguja (CG)

---- Appellant/Plaintiff**Versus**

1. Shivmangal Goand S/o. Sukhram Aged about 47 years,
2. Agarsai S/o. Sukhram Goand, aged about 49 years,
3. Suphal S/o. Gariba Chamar, aged about 42 years,
4. Pradhan S/o. Baiga Aged about 57 years,
5. Sukhlal S/o. Kanwal Sai aged about 42 years,
6. Shivilal S/o. Rengu aged about 42 years,

All the above are R/o. at Village Jamdeie Tahsil Surajpur Distt. Surguja (CG)

7. State of Chhattisgarh through Collector, Surguja (CG)

---Respondents/Defendants

For Appellant	: Shri Suresh Pandey, Advocate
For Respondents 1,3,5 &6	: Shri VK Pandey, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Judgment on Board****09.02.2021.**

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellant herein/plaintiff against the impugned judgment and decree dated 01.01.2011 passed by First Additional District Judge, Surajpur, Distt. Surguja in Civil Appeal No.05-A/2008 affirming the judgment and decree dated 11.01.2008 passed by Civil Judge Class-I, Surajpur Distt. Surguja in Civil Suit No.241A/2004 by which the trial Court dismissed the suit of the plaintiff.

2. Learned counsel for the appellant/plaintiff submits that both the

courts below have concurrently erred in dismissing the suit filed by the plaintiff and also not declaring order dated 30.01.2001 passed by the Collector as null and void.

3. On the other hand, learned counsel for the respondents supports the impugned judgment.

4. I have heard learned counsel for the appellant and went through the record with utmost circumspection.

5. The plaintiff filed suit for declaration of title and permanent injunction against the defendants on the ground that he has been granted patta, therefore, he is in possession of the suit land and the defendants have no right over the suit land. The Collector vide order dated 30.01.2001 cancelled the patta earlier granted in favour of the plaintiff, consequently, plaint was amended seeking cancellation of order dated 30.01.2001, but thereafter order of the Collector was not filed and in view of the matter, the trial Court dismissed the suit holding that the plaintiff failed to prove the order of the collector revoking patta as null and void and accordingly dismissed the suit. The first appellate court affirmed the said finding of the trial Court and dismissed the appeal.

6. It is the fact established on record that order dated 30.01.2001 passed by the Collector revoking patta ought to have been brought on record as its cancellation was sought by amending the plaint, but it was not produced and proved by the plaintiff before the trial Court, therefore, the trial Court could not examine as to whether the order of the Collector dated 30.01.2001 revoking patta was invalid or not. As such, the concurrent finding of both the courts below dismissing the suit is neither

perverse nor contrary to the record and the appeal does not involve any substantial question of law .

7. The second appeal deserves to be and is accordingly dismissed in limine without notice to the other side. No cost(s).

Sd/-

(Sanjay K. Agrawal)

JUDGE

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