

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No.343 of 2011**

1. Govind Rao Silledar, aged about 70 years, S/o Sita Ram Silledar
2. Vasudev Rao Silledar, Aged about 67 years, S/o Sita Ram Silledar

Both are agriculturist, R/o Vill. Parsada, Current Add. Seepat Road, Sarkanda, Bilaspur (C.G.)

3. Sudhaker Rao Silledar, Aged about 65 years, S/o Shri Krishna Rao Silledar, R/o Tilaknagar, Bilaspur, District Bilaspur (C.G.)
(Plaintiffs)
---- Appellants

Versus

State of Chhattisgarh, through the Collector, Bilaspur (C.G.)
(Defendant)
---- Respondent

For Appellants / Plaintiffs: -

Mr. Rakesh Dubey, Advocate.

For Respondent / Defendant / State: -

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

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

29/01/2021

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by the plaintiffs / appellants herein.
2. By the impugned judgment, the first appellate Court has dismissed the first appeal of the plaintiffs affirming the judgment & decree of the trial Court dismissing their suit.
3. Mr. Rakesh Dubey, learned counsel appearing for the appellants herein / plaintiffs, would submit that both the Courts below have

clearly erred in dismissing the suit by recording a finding which is perverse to the record, as the suit land ought to have been settled under Section 4(2) of the Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950 and as such the appeal be admitted for hearing by formulating substantial question of law.

4. It is the case of the plaintiffs that their fathers namely, Sitaram and Krishna Rao, both brothers, were malgujars of Village Parsada and they were owners of suit land bearing Khasra No.567, area 2.07 decimal, and they were in cultivating possession of the said land and in mutual partition, suit land bearing Khasra No.567/2, area 1.02 decimal, fell in the share of the plaintiffs. Since 1928-29, the plaintiffs are in possession and even after the Abolition of Proprietary Rights, they have become owners, but their case for correction of revenue record was wrongly dismissed by the Sub-Divisional Officer (Revenue), Bilaspur on 15-9-2004 holding that no case under Section 57(2) of the Chhattisgarh Land Revenue Code, 1959 is made out. Thereafter, in the year 2007, the plaintiffs filed suit for declaration of title, confirmation of possession and correction of revenue record.
5. The trial Court after appreciating oral and documentary evidence available on record held that the plaintiffs have failed to prove their adverse possession over the suit land and in the year 1928-29, in the revenue record, the suit land was recorded as *shamilati* land though the name of Sitaram and others was recorded and in the year 1937-38 also, the suit land khasra was recorded as *shamilati* land. It has further been recorded by the

trial Court on the basis of the statement of Sakhuruddin Sheikh (PW-1) that after the Abolition of Proprietary Rights, the suit land has become Government land and no document has been filed holding that after the Abolition of Proprietary Rights, the suit land has been settled in favour of the plaintiffs and as such, the plaintiffs have failed to prove their possession over the suit land and dismissed the suit accordingly which has been affirmed by the first appellate Court.

6. Concurrent finding recorded by the two Courts below holding that the plaintiffs have failed to establish their title much less title by way of adverse possession, is a finding of fact, as plaintiffs' witness No.1 Sakhuruddin Sheikh (PW-1) has clearly admitted that it is Government land after coming into force of the Abolition of Proprietary Rights and as such, no document has been brought on record after 1928-29 to establish the adverse possession of the plaintiffs. Therefore, I do not find any perversity or illegality in the finding recorded by the two Courts below holding that the plaintiffs have failed to establish their adverse possession over the suit land. 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