

HIGH COURT OF CHHATTISGARH, BILASPURF.A No.79 of 2011Reserved on 20.07.2021Pronounced on 27.08.2021

Sheetal, S/o Jeetan, aged about 40 years, R/o Village Godhi, Post Keshla,
Tah Lailunga, District Raigarh (CG) ----- Appellant/plaintiff

Versus

1. Seetaram, aged about 36 years, S/o Jeetan

2. Sukanti, aged about 32 years, S/o Jeetan

Both are by caste – Rawat, R/o Village – Godhi, Post – Keshla, Tah.
Lailunga, District – Raigarh (CG)

3. State of Chhattisgarh, through the Collector, District Raigarh (CG)

-----Respondents/Defendants

For Appellant:	Shri Prakash Tiwari, Advocate.
For Respondents No.1 & 2:	None, though served.
For Respondent No.3/State:	Shri Sanjeev Agrawal, Panel Lawyer.

Single Bench:Hon'ble Shri Sanjay S. Agrawal, J**C A V Judgment**

1. This Appeal has been preferred by the Plaintiff under Section 96 of the Code of Civil Procedure, 1908 (for short 'the CPC') questioning the legality and propriety of the judgment and decree dated 06.04.2011 passed in Civil Suit No.2-A/2011, whereby the trial Court has dismissed the Plaintiff's claim. The parties to this Appeal shall be referred hereinafter as per their description before the Court below.

2. Briefly stated, the facts of the case are that the Plaintiff instituted a suit claiming declaration of title in relation to the properties admeasuring

6.590 hectares (16.27 acres) situated at village Godhi, Tahsil Lailunga, District Raigarh described in detail in the Schedule attached with the Plaint. According to the Plaintiff, the suit property was originally held by his father Jeetan and upon his sad demise, it was inherited by him along with his brother Seetaram and sister Sukanti, Defendants No.1 & 2 respectively and the revenue papers were accordingly mutated in their names. Further contention of him is that his brother and sister, upon receiving an amount of Rs.1,75,000/-, have relinquished their interest over it in his favour by executing a consent deed dated 16.05.2010 and when he approached the revenue authority for deletion of their names in revenue papers, it was refused, which compelled him to institute the suit in the instant nature, instituted on 04.02.2011.

3. The Defendants were proceeded *ex parte* and the trial Court, upon due consideration of the alleged consent deed, held that being an unregistered deed, it cannot be held to be admissible in evidence nor right, title and interest of the Plaintiff's siblings could be held to be distinguished based upon it. As a consequence of it, the trial Court has dismissed the claim which has been impugned by way of this appeal.

4. According to learned Counsel for the Appellant/Plaintiff, the finding of the trial Court holding that Defendants No.1 & 2 have not relinquished their interest by virtue of the alleged deed, is apparently contrary to law. It is contended further that since the Defendants have executed the same in order to delete their names from the revenue papers, therefore, it cannot be termed to be a deed of sale so as to attract the provision prescribed under Section 54 of the Transfer of Property Act, 1882. Having failed to consider the same in its proper prospective, the Court below has

committed a serious illegality in dismissing the claim. In support, Mr. Tiwari has placed his reliance upon the decision rendered by the Supreme Court in the matter of Ravinder Kaur Grewal and Others vs. Manjit Kaur and Others reported in (2020) 9 SCC 706.

5. I have heard learned Counsel for the Appellant/Plaintiff and perused the entire record carefully.

6. The question which arises for determination in this Appeal is as to “whether the Plaintiff has acquired his exclusive interest over the Plaint schedule property based upon the alleged deed of relinquishment/consent letter (Ex.P-1) as executed in his favour by his brother and sister on 16.05.2010 ?”

7. Admittedly, the property in question was owned by predecessor in interest of the parties namely Jeetan and upon his sad demise, it was inherited by them and the revenue papers were accordingly mutated in their names as well. According to the Plaintiff, since his brother and sister have relinquished their interest upon receiving an amount of Rs.1,75,000/- from him by executing a consent deed (Ex.P-1) dated 16.05.2010, as such, he acquired his absolute interest over the Plaint schedule property. The document as executed in this regard is admittedly an unregistered one, therefore, the alleged transaction was required to be registered compulsorily in view of the provision prescribed in clause (b) of sub-section (1) of Section 17 of the Indian Registration Act, 1908. In view of its non registration, it cannot be held to be admissible in evidence nor the Plaintiff could claim his exclusive ownership based upon such an unregistered document, although it may be taken into consideration for the collateral purposes in the light of the provision prescribed under Section 49 of the

Registration Act, 1908 in order to show that the alleged amount of Rs.1,75,000/- was paid by him to his brother and sister, but in any manner, he cannot set up his exclusive ownership over the immovable property.

8. Similar is the view taken by the Andhra Pradesh High Court in the matter of *T. Arthi v. K. Anand Reddy & Ors* reported in **AIR 2006 ANDHRA PRADESH 335** wherein, at paragraphs-11 & 13, it has been held as under:-

“11. Coming to the second question, there is no controversy that the recitals of the document clearly indicate that it is a deed of relinquishment. The proof of the contents is a separate aspect. Since the relinquishment is in respect of an item of immovable property, the document requires registration under [Section 17\(1\)\(b\)](#) of the Registration Act. The relationship of the parties to the documents does not have any bearing on the requirement as to registration.”

“13. The petitioner is said to have relinquished her share in a definite item of immovable property, on receiving consideration. Therefore, the transaction was compulsorily registerable. Since it was not registered, the document is inadmissible in evidence. It is a different thing that it can be relied upon, for collateral purposes.”

9. In so far as the principles laid down in the matter of *Ravinder Kaur Grewal and Others vs. Manjit Kaur and Others* (supra) is concerned, the same is, however, noted to be distinguishable from the facts involved in the present case. As in the said matter, the parties had acted upon the family arrangement as per the terms and conditions settled earlier i.e., in 1970 and reinforced the same by the document executed in 1988, marked as Ex.P-6, i.e. memorandum of a family arrangement and in that factual scenario, it was held that being a memorandum of family arrangement, it

was not required to be registered. However, in the instant matter, the deed in question known as consent letter (Ex.P-1) would reveal the fact that the brother and sister of the Plaintiff-Sheetal have relinquished their right, title and interest with regard to the property in question after receiving a sum of Rs.1,75,000/- from him under the said unregistered deed. The document so executed, therefore, cannot be held to be a memorandum of family arrangement so as to be exempted from its registration under Section 17 of the Indian Registration Act, as contended by Mr. Tiwari herein.

10. Consequently, I do not find any infirmity in the findings recorded by the trial Court so as to call for any interference in this Appeal.

11. The Appeal being devoid of merits, is accordingly dismissed. No order as to costs.

12. A decree be drawn accordingly.

Sd/-
(Sanjay S. Agrawal)
JUDGE

Priya