

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No.182 of 2012

- Sonau, S/o Sudhu Lahare, aged about 45 years,
P.H. No.08, Tahsil- Simga, Dist. Raipur, C.G.

----- Appellant

Versus

- 1.Dhan Bai, D/o Sudhu Lahare, aged about 50
years
- 2.Suresh Kumar, S/o Beduram Satnami, aged about
30 years
- 3.Beduram, S/o Balaram wali minor Sanjay Kumar,
aged 14 years, S/o Beduram Satnami
- 4.Chandroutin Bai, Wd/o Sudhu Lahare, aged about
80 years
- 5.Satwantin Bai, Wd/o Sudhu Lahare, aged about
75 years
- 6.Rupau, S/o Sudhu Lahare, aged about 35 years
- 7.Mohan Lal, S/o Sudhu Lahare, aged about 32
years
- 8.Daulal @ Mahavir, aged about 25 years

All are the R/o Village Darchura, P.H. No.8, Tahsil
Simga, District Raipur (C.G.)

- 9.State of C.G. through Collector, Raipur (C.G.)

----- Respondents

For Appellant

Mr. Sanjay Patel, Advocate

Hon'ble Justice Shri Sanjay K. Agrawal

Order On Board

25/06/2021

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellant/plaintiff.
2. By the impugned judgment and decree, the First Appellate Court has dismissed the appeal preferred by the appellant/plaintiff vide judgment and decree dated 24.04.2012 passed by the learned Additional District Judge, Bhatapara, District Raipur (C.G.) in Civil Appeal No.05/2011 affirming the judgment and decree of the Trial Court dated 09.03.2011 passed by the learned Civil Judge Class-II, Simga, District Raipur (C.G.) in Civil Suit No.30A/2008, whereby the learned Trial Court dismissed the suit preferred by the appellant/plaintiff.
3. Mr. Patel, learned counsel for the appellant/plaintiff, would submit that the two Courts below have committed legal error in holding that Sudhu Lahre, father of the plaintiff and defendant Nos.7 & 8 and husband of defendant Nos.5 & 6, has legally and validly alienated the suit property in favour of his daughter defendant No.1 by recording a

finding perverse to the record. As such, the appeal involves substantial question of law for determination and deserves to be admitted for hearing.

4. I have heard learned counsel for the appellant, considered his submissions made herein-above and also went through the records with utmost circumspection.

5. The suit property was originally held by Sudhu Lahre. He alienated the suit land by registered sale deed dated 17.09.1979 (Ex-P/1) in favour of his daughter, the defendant No.1. The defendant Nos.2 & 3 are the sons of defendant No.1. The defendant Nos.7 & 8 are the brothers of plaintiff and sons of Sudhu Lahre, whereas the defendant Nos.5 & 6 are the widows of Sudhu Lahre. One of the sons of Sudhu Lahre i.e. Sonau, the plaintiff filed a suit declaration of title, partition and declaring the sale deed 17.09.1979 (Ex-P/1) as null and void as late as on 07.11.2008 inter-alia stating that the alienation made by his father in favour of his sister/daughter of Sudhu Lahre vide registered sale deed dated 17.09.1979 (Ex-P/1) confers no title to the

defendant No.1 and he is entitled for half share in the suit property and claimed decree, which was opposed by the defendant No.1 by filing her written statement.

6. The Trial Court after appreciating the oral and documentary evidence available on record dismissed the suit holding that the suit is barred by limitation and the suit property being the self acquired property of Sudhu Lahare, he has rightly alienated in favour of her daughter, the defendant No.1 and the plaintiff has failed to prove that the suit property has not been sold legally and validly and the suit is also barred by limitation. The First Appellate Court has also affirmed the judgment and decree of the Trial Court in the appeal preferred by the plaintiff holding that the suit property is the self acquired property of Sudhu Lahare and he has legally and validly alienated the suit property in favour of his daughter, the defendant No.1 and the suit so filed on 07.11.2008 is also barred by limitation. The said finding of fact are based on the material available on record, which is neither perverse nor contrary to law.

7. I do not find any substantial question of law for determination in this second appeal. It 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

Nirala