

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 142 of 2012**

1. Nirmal Ekka, Aged about 40 years, S/o Late Silbanus Ekka.
2. Basil Ekka, Aged about 35 years, S/o Late Silbanus Ekka.
3. Mu. Tarsila, Aged about 70 years, Wd/o Late Silbanus Ekka.
4. William Ekka, Aged about 35 years, S/o Chutiya Ekka.

All are Caste Uraon, Occupation Agriculturist, R/o Village Charayeedand (Portenga), Tahsil and Distt. Jashpur, Chhattisgarh.

--Appellants/Plaintiffs

Versus

1. Smt. Philomina, Aged about 55 years, W/o Shri Manbahadur Nepali, Caste Uraon, Through Smt. Amreeta, W/o Shri Agastus, R/o Kuding Mahuatoli, PO Lokhandi, Tahsil and Distt. Jashpur, Chhattisgarh.
2. State of Chhattisgarh, Through the Distt. Collector, Jashpur, Chhattisgarh.

--- Respondents/Defendants

For Appellants :- Mr. A.N. Bhakta, Advocate

For State :- Mr. Suyash Dhar, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

06/04/2021

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellants/plaintiffs under Section 100 of CPC against the impugned judgment and decree passed by the first appellate Court affirming the judgment and decree by which trial Court dismissed the suit of the plaintiffs finding no merit.
2. Mr. A.N. Bhakta, learned counsel for the appellants/plaintiffs, would submit that both the Courts below have concurrently erred in holding that plaintiffs have failed to prove the custom that in 'Uraon' community, daughter would not inherit the property of her father after marriage, as such, the appeal be admitted by formulating substantial question of law in this regard.
3. Pethe Uraon had three sons namely Etwa, Chutiya and Johan. Plaintiffs are descendants of Etwa and Chutiya whereas defendant No. 1 is the granddaughter of Johan. It is the case of the plaintiffs that since defendant No. 1 Philomina i.e. granddaughter of Johan has already been married, therefore, as per the custom of 'Uraon' community to which the parties belong to, she is

not entitled to inherit the property of her father Emil, which the trial Court as well as the first appellate Court did not accept and dismissed the suit as well as the first appeal filed by the plaintiffs.

4. Both the Courts below have concurrently held that plaintiffs have failed to prove any such custom prevailing in the 'Uraon' community according to which daughters do not get share in their fathers' property after marriage. The said finding recorded by both the Courts below that plaintiffs have failed to prove valid custom excluding defendant No. 1 from inheriting the property of her father Emil after marriage is a finding of fact based on evidence available on record which is neither perverse nor contrary to the record and does not involve any substantial question of law for determination.

5. The second appeal, being devoid of merits, deserves to be and is accordingly dismissed in limine without notice to the other side. No cost(s).

Sd/-

(Sanjay K. Agrawal)

Judge