

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**SA No. 432 of 2012**

1. Dashru Ram Dhruv S/o Kejuram Aged About 53 Years Sarpanch, Village- Panchayat Chachoud (Shyamnagar);
2. Manoj Kumar Sahu S/o Biselal Sahu Aged About 28 Years Up- Sarpanch, Village- Panchayat Chachoud (Shyamnagar);
3. Gendram Nishad S/o Siya Ram Aged About 65 Years Adhyaksh, Gram Vikas Samiti, Chachoud (Shyamnagar);
4. Ramji Sahu S/o Sonu Ram Sahu Aged About 38 Years Kastkar & R/o Village- Chachoud (Shyamnagar);
5. Suklal Sahu S/o Lachchhu Sahu Aged About 65 Years;

All Kastkar and are R/o Village- Chachoud (Shyamnagar), Tah. Rajim, Distt. Raipur C.G.

----- Appellants

Versus

1. Smt. Bittu Sharma W/o Govind Sharma Aged About 45 Years R/o Village - Aajad Chowk, Raipur, Presently R/o Village- Chachoud Shyamnagar, Rajim, Tah. Rajim, Distt. Raipur C.G.

2. Tahsildar, Rajim Tahsil- Rajim, Distt. Raipur C.G.

3. Government of Chhattisgarh Through - Collector, Raipur, Tah. & Distt. Raipur C.G.

4. Ashok Sharma S/o Shankar Prasad Sharma Aged About 50 Years;

5. Kishore Sharma S/o Shankar Prasad Sharma Aged About 46 Years;

6. Mahendra Sharma S/o Shankar Prasad Sharma Aged About 42 Years;

7. Manoj Sharma S/o Shankar Prasad Sharma Aged About 40 Years;

Respondents No.4 to 7 are R/o Through- Ashok Sharma, Advocate, Near Mohan Nagar, Thampi Patra, Mohan Nagar, Durg, Tah. & Distt. Durg C.G.

8. Gopal Prasad Sharma S/o Nokhe Lal Sharma Aged About 56 Years, R/o Near Gandhi Putla, Sohaga Mandir Road, Brahman Para, Raipur C.G.

9. Suman Bai Wd/o Raju Sharma Aged About 42 Years;

10. Virendra Sharma Aged About 39 Years (Mentally Disturbed) Through - Guardian & Bhabhi- Suman Wd/o Raju Prasad Sharma, R/o Village- Lakhe Nagar, Raipur, Tah. & Distt. Raipur C.G.

----- Respondent

For Appellants :- Mr. Y.C. Sharma, Senior
Advocate with Mr. Vivek Rathore, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

13/07/2021

1. Proceedings of this matter have been taken up through video conferencing.
2. Heard on admission and formulation of substantial question of law in second appeal preferred by the appellants / plaintiffs.
3. By the impugned judgment and decree, the first appellate Court has dismissed the appeal preferred by the appellants / plaintiffs affirming the judgment and decree of the trial Court dismissing the suit of the appellants / plaintiffs.
4. Mr. Y.C. Sharma, learned Senior Counsel with Mr. Vivek Rathore, learned counsel for the appellants / plaintiffs, would submit that both the Courts below have concurrently recorded a finding that suit land is not the land

earmarked for grazing purpose and it is also not the Government land, by recording a finding which is perverse to the record and, as such, the appeal deserves to be admitted for hearing by formulating substantial question of law for determination.

5. I have heard learned counsel for the appellants / plaintiffs, considered his rival submissions and also went through the records.

6. The plaintiffs filed representative suit for declaring the suit land bearing Khasra No.735 area 0.14 hectare as the land earmarked for grazing purpose and, as such, it be declared as grazing ground and decree be passed in their favour. The trial Court held that the suit land is not the Government land, it is not earmarked for grazing purpose under Section 237 of the Chhattisgarh Land Revenue Code, 1959 and also not earmarked under Section 234 of the Chhattisgarh Land Revenue Code, 1959 in Nistar Patrak and, as such, decree cannot be granted. Such finding has been affirmed by the first appellate Court.

7. Both the Courts below have held that the suit

land is held by private person, therefore, no decree can be passed. Concurrent finding recorded by two Courts below that the suit land is not earmarked for grazing purpose under Section 237(1)(2)(3) of the Chhattisgarh Land Revenue Code, 1959 and it is also not recored in Nistar Patrak under Section 234 of the Chhattisgarh Land Revenue Code, 1959, are finding of the fact based on evidence available on record. It is neither perverse nor contrary to the record, as such, I do not find any substantial question of law for admission of this second appeal.

8. Accordingly, the second appeal being deviod of merit is liable to be and is hereby dismissed in *limine* without notice to other side. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Ankit