

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No.137 of 2011

1.Mu. Rechi, W/o Deshiya Ram

2.Mansu, S/o Deshiya Ram

3.Budhu, S/o Deshiya Ram

All R/o Village Andharjhar (Lakuvakona),
Tahsil Manora, District Jashpur (C.G.)

----- Appellants

Versus

1.Smt. Chaiti Bai, W/o Mohar Ram, aged about
28 yers, Caste Kahar, R/o Village Baherna,
Tahsil Jashpur, District Jashpur (C.G.)

2.State of Chhattisgarh, through the
Collector, District Jashpur (C.G.)

----- Respondents

For Appellants	Mr. S. S. Rathore, Adv. On behalf of Ms. Hamida Siddiqui, Adv.
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For Respondent-State Mr. Suyash Dhar, PL

Hon'ble Justice Shri Sanjay K. Agrawal

Order On Board

01/03/2021

1. Heard on admission and formulation of
substantial question of law in the second

appeal preferred by the appellants /plaintiffs.

2. By the impugned judgment and decree, the First Appellate Court has dismissed the appeal preferred by the appellants /plaintiffs vide judgment and decree dated 18.01.2011 passed by the learned District Judge, Civil District Jashpur(C.G.) in Civil Appeal No.28A/2010 affirming the judgment and decree dated 29.12.2007 of the Trial Court passed by the learned Civil Judge Class-II, Jashpur, District Jashpur (C.G.) in Civil Suit No.05A/2006 partly decreeing the suit filed by the appellants/plaintiffs.

3. Mr. Rathore, learned counsel for the appellants/plaintiffs, would submit that both the Courts below have grossly erred in concurrently holding that the plaintiffs are not the exclusive owner of the suit property and are only entitled for half share in the suit property and the

defendant No.1 Chaiti Bai, being the daughter of Chheriya, is also entitled for half share in the suit property by recording a finding perverse to the record. As such, the appeal be admitted for hearing by formulating substantial question of law.

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 Batai. He had four sons namely Andha, Jhumra, Chutiya and Liti. Chutiya had two sons Chheriya and Motu. The plaintiffs are the legal representatives of the original plaintiff Deshiya, who was the son of Liti, whereas the defendant No.1 is the daughter of Chheriya. The dispute relates to property left by Chutiya and Liti. The original plaintiff filed a suit for declaration of title, possession as also to declare the orders dated 10.12.2004 &

18.03.2005 passed by the Tahsildar, Manora as null and void claiming that the defendant No.1 Chaiti Bai is not the daughter of Chheriya, therefore, she has no right and title over the suit property and the plaintiff be declared the exclusive owner of the suit property.

6. The Trial Court after appreciating the oral and documentary evidence available on record held that Chaiti Bai, being the daughter of Chheriya, is also entitled for half share in the suit property, therefore, the plaintiff is not the exclusive owner of the suit property and he would get only half share in the suit property and the orders dated 10.12.2004 and 18.03.2005 passed by the Tahsildar, Manora are not null and void. The judgment and decree of the Trial Court has also been affirmed by the First Appellate Court, against which this second appeal has been preferred.

7. Since the suit property is held jointly by

Chutiya and Liti, the findings recorded by the two Courts below that the defendant No.1 Chaiti Bai, being the daughter of Chhuriya, is also entitled for half share in the suit property and the plaintiff is only entitled for half share in the suit property and the orders dated 10.12.2004 and 18.03.2005 passed by the Tahsildar, Manora are not null and void are findings of fact based on the material available on record, which is neither perverse nor contrary to the record.

8. I do not find any substantial question of law involved in this second appeal so filed by the appellants/plaintiffs. 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