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ASHOK SAHU

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HIGH COURT OF CHHATTISGARH AT BILASPUR

FA No. 56 of 2017

{Arising out of judgment and decree dated 23.12.2016 passed in Civil Suit No. 11-A/2012 by the First Additional District Judge, Janjgir, District Janjgir-Champa}

Judgment reserved on: 06-10-2026

Judgment delivered on: 28-10-2026

Judgment (Full) uploaded on: 28-10-2026

Rakhi Ram, S/o. Banshilal, Aged About 48 Years, Caste Dewangan, R/o. Village Birra, Tahsil Champa, District Janjgir-Champa, Chhattisgarh

... Appellant
Plaintiff

versus

1 – Darashram, S/o. Ghasiram, Aged About 70 Years, Caste Satnami, R/o. Village Taldevri, Tahsil Champa, District Janjgir-Champa, Chhattisgarh.

2 – Chandram, S/o. Ghasiram, Aged About 65 Years, Caste Satnami, R/o. Village Taldevri, Tahsil Champa, District Janjgir-Champa, Chhattisgarh.

3 - State Of Chhattisgarh, Through Collector, District Janjgir-Champa, Chhattisgarh.

4 - Smt. Lata Sharaf, W/o. Yogendra Sharaf, Caste Soni, R/o. Village Bamhnidih, Tahsil Champa, Through Vishal Enterprises And Jewellers, Sadar Bazar Road, Bamhnidih, Police Station Bamhnidih, District Janjgir-Champa, Chhattisgarh.

... Respondents
Defendants

For Appellant	:	Mr. H.B.Agrawal, Senior Advocate with Ms. Nilu Singh, Advocate
For Respondents No.1, 2 & 4.	:	Mr. Amit Kumar Patel, Advocate on behalf of Mr. Pushpendra Kumar Patel, Advocate
For State/Respondent No.3	:	Mr. Tarkeshwar Nande, Panel Lawyer

Single Bench: -

Hon'ble Smt. Sushma Sawant, J.

C.A.V. Judgment

1. Invoking the appellate jurisdiction of this Court under Section 96 of the Code of Civil Procedure, 1908, the appellant herein/defendant has preferred this appeal challenging the judgment & decree dated **23-12-2016** passed by the **1st Additional District Judge, Janjgir, District-Janjgir Champa in Civil Suit No.11A/2012**, by which the learned Additional District Judge has **dismissed** the suit filed by the respondent herein/plaintiff, for declaration of title and possession and permanent injunction.

2. The aforesaid challenge has been made on the following factual backdrop: -

(For the sake of convenience, parties hereinafter will be referred as per their status shown and ranking given in the civil suit before the trial Court.)

-:Factual Matrix:-

Description of suit property -

3. The land bearing Khasra No. **3143**, admeasuring **0.11** acre, situated at **Village -**Taldeori, **Patwari Halka No**. 20, **Revenue Inspector Circle** And, **Tahsil** -Champa, **District** Janjgir-Champa, Chhattisgarh (hereinafter referred to as the "**suit land**").

-: Case of the Plaintiff/Appellant before the trial Court :-

4. The case of the appellant/plaintiff Rakhiram, in brief, is that his maternal grandfather, Kriparam, had purchased the suit land from Ghasiram, father of respondent/defendant Nos. 1 and 2, by a registered sale deed dated 05/08/1975 and obtained possession thereof. Since then, Kriparam had been in possession of the suit land. Ghasiram had no male issue and had only one daughter, Kachrabai. The appellant/plaintiff is the son of Kachrabai. Kachrabai also had a daughter, Anganbati, who is the sister of the appellant/plaintiff. When the appellant/plaintiff was nine years old, his mother Kachrabai died, and his father, Banshilal, contracted a second marriage. Consequently, the appellant/plaintiff and his sister, Anganbati, resided with their maternal grandfather, Kriparam. Kriparam died about 8–10 years prior to the institution of the suit and his wife died 2–3 years thereafter. Following the death of his maternal grandfather, the names of the appellant/plaintiff and his sister, Anganbati, were recorded in the revenue records in respect of the land owned by Kriparam.

5. The appellant/plaintiff further pleaded that Kriparam and the appellant/plaintiff were under the impression that the suit land was also recorded in their names in the revenue records. However, in December 2011, respondent/defendant Nos. 1 and 2 restrained the appellant/plaintiff from cultivating the suit land on the ground that their names were recorded in the revenue records. Subsequently, they sold the suit land to respondent/defendant No. 4- Smt. Lata Sharaf, despite having no right or authority to do so. Therefore, the suit was instituted seeking a declaration of title and possession over the suit land, along with a decree of permanent injunction restraining the defendants from interfering with his possession over the suit land.

-:Written Statement of the Defendant/Respondents before the trial Court:-

6. Respondent/defendant Nos. 1 and 2, while denying the plaint averments in their entirety, filed their written statement contending that their father, Ghasiram, had never sold the suit land and that they had been in continuous possession thereof since the time of their father. They further contended that the suit land had already been sold to respondent/defendant No.4 by a registered sale deed and that respondent/defendant No. 4 was in possession thereof. It was pleaded that the suit had been instituted on the basis of a concocted story and was, therefore, liable to be dismissed.

7. Respondent/defendant No. 3, the State, being a formal party to the suit, did not file any written statement. Despite service of summons,

respondent/defendant No. 3 remained absent and was, therefore, proceeded ex parte on 22/06/2012.

8. Respondent/defendant No. 4- Smt. Lata Sharaf, while denying the plaint averments in their entirety, filed a written statement contending that she had lawfully purchased the suit land from respondent/ defendant Nos. 1 and 2 by a registered sale deed dated 16/11/2011 and obtained possession thereof, upon which her house had been constructed. She further contended that the plaintiff was not the son of Kachrabai (daughter of Kriparam) and that Kachrabai had only one daughter, namely, Anganmati. It was pleaded that the plaintiff was the son born to Banshilal (husband of Kachrabai) from his second marriage and had never been in possession of the suit land. On these grounds, respondent/defendant No. 4 sought dismissal of the suit.

-: Proceedings before the learned Trial Court :-

9. The Trial Court after appreciating oral and documentary evidence available on record, framed following issue and answered the issue as under:-

S.No.	Question for Consideration	Finding
1.	क्या वादभूमि को प्रतिवादी क्रमांक 01 एवं 02 के पिता स्व. घासीराम ने दिनांक 05.08.1975 के पंजीकृत विक्रय पत्र के द्वारा कृपाराम को विक्रय कर दिया था ?	"कृपाराम द्वारा वादिभूमि क्रय करने के पश्चात कोई कार्यवाही अपने जीवनकाल में नहीं की गई उक्त कारण से विक्रय पत्र दिनांक 5/8/1975 को दिखावटी विक्रय पत्र माना जायेगा तथा यह भी माना जायेगा कि कृपाराम ने अप्रत्यक्ष

		रूप से अपना हक त्याग दिया था।"
2.	क्या वादी एवं उसकी बहन आंगनमति के मध्य आपसी बंटवारा होकर वादभूमि वादी को प्राप्त हुई थी?	"प्रमाणित नहीं"
3.	(अ) क्या वादभूमि पर प्रतिवादी क्रमांक 01 एवं 2 का स्व. घासीराम के जीवनकाल से तथा विक्रय पत्र दिनांक 05.08.1975 के पूर्व से लगातार दिनांक 16.11.2011 तक आधिपत्य था ? (ब) क्या वादभूमि पर दिनांक 16.11.2011 से वर्तमान तक लगातार प्रतिवादी क्रमांक 04 का आधिपत्य है ? (स) क्या वादभूमि पर दिनांक 05.08.1975 से कृपाराम का और उसकी मृत्यु उपरांत उसके उत्तराधिकारी वादी और बहन आंगनमती का लगातार आधिपत्य वर्तमान समय तक बना हुआ है?	"प्रमाणित" "प्रमाणित " "प्रमाणित नहीं"
4.	क्या प्रतिवादी क्रमांक 01 एवं 02 वादभूमि पर वादी के आधिपत्य में दखल दे रहें है ?	"प्रमाणित नहीं"
5.	क्या मामले में पक्षकारो का असंयोजन है ?	"हा, असंयोजन है।"
6.	वांछित अनुतोष, अन्य सहायता एवं वाद व्यय ?	"कडिका 34 के अनुसार वाद निरस्त।"
7.	क्या दावा अवधि में है ?	"समयावधि में प्रस्तुत किया गया है"

-:Details of evidence and documents available before the Trial Court:-

-:Evidence led by the Appellant/plaintiff Rakhiram :-

10. Before the Trial Court,the appellant/plaintiff Rakhiram examined himself **as (P.W.-1)** and also examined Ramdayal as a witness **(P.W.-2).** In support of his oral testimony, appellant/plaintiff Rakhiram has exhibited 4 documents as **Exs.P-1 to P-4**.

Evidence led by the respondents/defendants:-

11. The defendants No. 1 to 3, having been proceeded ex parte, have not adduced any evidence. Respondent/ Defendant No. 4- Smt. Lata Sharaf, though having cross-examined the plaintiff's witnesses, has not adduced any oral or documentary evidence.

-:Judgment of the trial Court:-

12. Upon completion of the trial, the learned Trial Court, by its judgment and decree dated 23/12/2016, dismissed the plaintiff's suit. Being aggrieved by the same, the present appeal has been preferred on the following grounds:-

(1) Whether the trial court erred in holding that exhibit P.4 sale deed is ostensible sale deed as per judgment para 19, because there is no civil suit under section 19 of Contract Act to cancel the sale deed of appellant's maternal grandfather ?

(2) Whether the trial court has committed an error in deciding whole suit by taking the sale deed as illegal, in fact sale deed when not cancelled or declared void by any court of law, cannot be treated as cancelled or void, therefore findings are perverse and illegal, and liable to be set-aside?

(3) Whether the suit of appellant was liable to be decreed and declaration and injunction prayed for ought to have been granted, because that sale deed was never challenged with 3 years either by

Ghasiram or by their son i.e. respondent no. 1 and 2, therefore the sale done by the respondent no. 1 and 2 to respondent no. 4 is illegal and void ab-initio?

(4) Whether the trial court has committed an error in not mutating the land by patwari in the name of Kriparam, though there is mention of mutation no. 389 in exhibit P.4, therefore inaction of patwari whether can be treated or held that registered sale deed gone due to that omission ?

(5) Whether the suit of appellant has been wrongly dismissed by the trial court and therefore the suit is liable to be decreed by setting-aside the judgment and decree of trial court ?

-:Proceedings before the Appellate Court:-

13. Both the parties were heard on this appeal. The evidence and documents available in the record of the trial Court have been perused.

-:Questions to be considered in this Appeal:-

1. Whether the appellant/plaintiff has established his title over the suit land bearing Khasra No. 3143, admeasuring 0.11 acre, situated at Village Taldeori, Patwari Halka No. 20, Revenue Inspector Circle And, Tahsil Chanpa, District Janjgir-Champa, on the basis of the alleged registered sale deed dated 05/08/1975 executed in favour of his maternal grandfather, Kriparam?

2. Whether the appellant/plaintiff has established that he was in possession of the suit land and is entitled to a decree for possession and permanent injunction, as prayed for?

3. Whether the learned Trial Court was justified in dismissing the suit by the impugned judgment and decree dated 23/12/2016, and whether the same warrants interference in this appeal?

-:Argument of the Appellant/Plaintiff- Rakhiram:-

14. The appellant/plaintiff, reiterating the averments made in the plaint, has mainly contended that his maternal grandfather, Kriparam, had already purchased the suit land by virtue of the registered sale deed (Ex.P-4). Therefore, respondent/defendant Nos. 1 and 2 had no right or authority to sell the suit land again to respondent/defendant No. 4. Consequently, the subsequent sale deed executed in favour of respondent/defendant No. 4 could not confer any valid title upon him. On this basis, it is contended that the learned Trial Court has erred in dismissing the suit, and the impugned judgment and decree are liable to be set aside.

-:Argument of the Respondents/defendants :-

15. Per contra, the respondents/defendants, while advancing their submissions in the light of their respective pleadings, have additionally drawn the attention of this Court to the admissions made by the appellant/plaintiff in his cross-examination, contending that he had no knowledge regarding possession of the suit land, etc. It is further

contended that the appellant/plaintiff has not adduced any evidence to establish how the suit land, even if belonging to Kriparam, devolved upon him.

-:Analysis of the Appellate Court:-

Points for determination No (1) to (3).

16. All three questions are interconnected and, therefore, are taken up together for consideration.

17. Upon consideration of the pleadings of the parties and the oral and documentary evidence available on record, it emerges that the principal documentary evidence relied upon by the appellant/plaintiff **Rakhiram** is the sale deed **(Ex.P-4)**, stated to have been executed by **Ghasiram** in favour of **Kriparam** more than 30 years prior to its production in evidence.

18. The learned Trial Court has accepted the execution of the said sale deed on account of its being more than 30 years old; however, it has drawn an inference that **Kriparam** had abandoned his rights over the suit land on account of his failure to get his name recorded in the revenue records. It further emerges from the evidence that Kriparam never got his name recorded in the revenue records in respect of the suit land.

19. The statements made by the appellant/plaintiff **Rakhiram(P.W.-1)** in his cross-examination also do not establish his possession over the suit land. Rather, his testimony indicates that he came to know about the suit land only about four to five years prior to the institution of the suit.

Thus, the appellant/plaintiff has not satisfactorily established his possession over the suit land.

20. Another significant aspect of the matter is that the appellant/plaintiff has not produced any documentary evidence to establish that he is the **son of Kachrabai,** the **daughter of Kriparam**. Furthermore, he has not impleaded his sister, **Anganmati**, as a party to the suit, despite claiming that she is also the **daughter of Kachrabai** and that, following the death of Kriparam, their names were recorded in the revenue records in respect of the land inherited from him. The **non-joinder of Anganmati**, therefore, assumes significance in the adjudication of the appellant/plaintiff's claim.

21. On the other hand, the record contains a subsequent registered sale deed executed in favour of respondent/defendant No. 4- Smt. Lata Sharaf in respect of the suit land. Although respondent/defendant No.4- Smt. Lata Sharaf has not adduced independent oral or documentary evidence, the appellant/ plaintiff Rakhiram was nevertheless required to establish his own title and entitlement to the reliefs claimed. The failure of the defendants to adduce evidence, by itself, would not dispense with this burden.

22. In these circumstances, the principal questions requiring consideration are whether the sale deed **(Ex.P-4)**, notwithstanding the absence of a corresponding revenue entry in the name of **Kriparam,** establishes his title to the suit land; whether the mere failure to mutate his name in the revenue records can justify an inference that he abandoned his rights

over the property; and whether the appellant/plaintiff has established his relationship with Kriparam and his entitlement to claim the suit land through him. These aspects are being examined in the light of the evidence available on record and the principles governing the appreciation of evidence.

23. Ordinarily, the mere absence of a person's name in the revenue records is not sufficient to infer that such person has abandoned his rights over the property. However, the facts and circumstances of the present case stand on a different footing. In the present case, neither the executant nor the beneficiary of the sale deed **(Ex.P-4)** is alive, and no evidence has been adduced to establish the actual nature of the transaction beyond the execution of the document.

24. At the same time, it cannot be overlooked that, as pleaded in paragraph 4 of the plaint, Kriparam's name could not be recorded in the revenue records for reasons not specified. The suit land is agricultural land, and, from the year 1975 until about 8–10 years prior to the institution of the suit in 2012, a period of approximately 25–30 years elapsed without Kriparam's name being recorded in the revenue records. In such circumstances, the assertion that he continued in possession of the agricultural land throughout this period, without any corresponding revenue entry, does not appear convincing, particularly when possession over agricultural land is also reflected in the revenue records through entries relating to cultivation and **girdawari,** and the name of the person in possession may be recorded even when ownership is claimed by another person.

25. These circumstances give rise to doubt as to whether the sale deed **(Ex.P-4)** represented an actual transaction acted upon by the parties or remained merely a documentary transaction. This aspect assumes further significance in view of the appellant/plaintiff's Rakhiram own case that, after the death of his maternal grandfather, he took steps to have his and his sister Anganmati's names recorded in respect of Kriparam's lands. If such steps were indeed taken, it is difficult to understand how the appellant/plaintiff failed to notice that his name had not been recorded in respect of the suit land.

26. It is particularly significant that, in paragraph 5 of the cross-examination of the appellant/plaintiff **Rakhiram (P.W.-1)**, it has emerged that he did not know the Khasra number or area of the land, nor did he know who was in possession thereof. Further, as appears from paragraph 6 of his cross-examination, he came to know about the suit land only at the time of institution of the suit, and he also admitted that respondent/defendant No. 4- Smt. Lata Sharaf was presently in possession thereof. These statements raise serious doubts regarding the appellant/plaintiff's knowledge of the suit land and the state of its possession, and do not lend support to his claim concerning possession or the alleged partiton of the land.

27. The most significant aspect of the matter is that, despite the objection raised by the opposite party, the appellant/plaintiff Rakhiram **neither impleaded his sister, Anganmati, as a party to the suit nor examined her as a witness**, thereby lending further support to the inference adverse to his claim. Another important aspect is that the

revenue records **(Ex.P-3)** reveal that, **after the death of Kriparam's wife**, only Anganmati's name was recorded in respect of the land belonging to Kriparam, and the name of the appellant/plaintiff was not recorded therein. This circumstance, coupled with the admissions made by the appellant/plaintiff in his cross-examination, lends credence to the doubts raised by respondent/defendant No. 4-Smt. Lata Sharaf regarding the appellant/plaintiff's claim.

28. In view of the non-joinder of Anganmati, the failure of the appellant/plaintiff to establish his claim through cogent evidence, and the absence of any convincing material demonstrating that Kriparam had exercised or continued to enjoy rights over the suit land for a considerable period after the execution of the sale deed (Ex.P-4), the learned Trial Court cannot be said to have committed any error in recording findings adverse to the appellant/plaintiff.

29. Even if, for the sake of argument, the aforesaid circumstances are disregarded and it is assumed that Kriparam had purchased the suit land and obtained possession thereof, the appellant/plaintiff was still required to establish his entitlement to the suit land as Kriparam's successor. In this regard, the appellant/plaintiff has not produced any evidence before the learned Trial Court, such as the Kotwari register or any other relevant documentary evidence, to establish that his mother was Kachrabai.

30. A declaration of title in favour of the appellant/plaintiff in the capacity of Kriparam's successor could not be granted without considering the

rights of the other legal heirs. However, the appellant/plaintiff did not implead his sister, Anganmati, as a party to the suit, nor did he examine her as a witness, which could have brought the relevant facts to light.

31. In view of the foregoing discussion, the appellant/plaintiff has failed to establish his title to the suit land and possession thereof. Consequently, the impugned judgment and decree passed by the learned Trial Court do not warrant interference by this appellate Court.

-:Final Conclusion:-

32. In view of the foregoing discussion, this Court finds that the learned Trial Court has rightly dismissed the suit, as the appellant/plaintiff has failed to establish his title to and possession over the suit land. No illegality or infirmity is found in the impugned judgment and decree warranting interference by this appellate Court. Accordingly, the appeal, being devoid of merit, is hereby **dismissed**.

33. The judgment and decree dated **23/12/2016** passed by the learned Trial Court in Civil Suit No. 11A /2012 Rakhiram Vs Darasram and others are hereby **affirmed**.

34. The parties shall bear their own costs of this appeal. A decree be drawn up accordingly.

Sd/-
(Sushma Sawant)
JUDGE

Ashok