



HIGH COURT OF CHHATTISGARH AT BILASPUR

S.A. No. 494/2006

APPELLANT
Defendant no. 2

RESPONDENTS
Plaintiff

Jawahir Bai D/o Sita Ram (Widow Shyam Lal Dubey) aged about 72 years, R/o Chikhli, Rajnandgoan, Tahsil & District -Rajnandgaon, (M.P) Now (C.G.).

VERSUS

1. Lakhan Lal S/o Sita Ram (Dead) Legal heirs:-
- A. Smt. Amoliya Tiwari (Widow) Lakhan Lal Tiwari, aged about 65 years,
- B. Shri Suraj Tiwari S/o Late Lakhan Lal Tiwari, aged about 49 years.
- C. Chandra Sekhar Tiwari S/o Late Lakhan Lal Tiwari, aged about 46 years,
- D. Smt. Sita Tiwari (Widow) Late Surendra Tiwari, aged about 55 years.
- E. Nirmala Tiwari D/o Late Lakhan Lal Tiwari, aged about 58 years.
- F. Shail Kumari D/o Late Lakhan Lal Tiwari, aged about 52 years.
- G. Anju D/o Late Lakhan Lal Tiwari, aged about 40 years.
- H. Rekha D/o Late Lakhan Lal Tiwari, aged about 37 years.
- I. Chanchal D/o Late Lakhan Lal Tiwari, aged about 34 years.
- J. Mamta D/o Late Lakhan Lal Tiwari, aged about 31 years.
- K. Smt. Raj Laxmi D/o Late Lakhan Lal Tiwari, aged about 43 years.
- L. Sushri, Kavita Pandey D/o Surendra Tiwari, age about 26 years.
- M. Sushri Nandini Tiwari, D/o Surendra Tiwari, aged about 23 years.
- N. Sushri Vidya Tiwari, D/o Surendra Tiwari, aged about 20 years.
All R/o Village & P.O. Auri Gandhari, Tahsil Doundilohara, Distr. Durg (C.G.).
2. Heera Bai D/o Sita Ram (Wido Bhushan Pandey) aged about 75 years, Caste Bhrahman, R/o Village - Rajim, Near Laxmi Narayan Mandire, Tahsil Nayapara, Rajim, Distt. Raipur (C.G.).
3. Bodhan Ram S/o Perdeshi Sahu, aged about 37 years.
4. Ashwani Kumar S/o Perdeshi Sahu,

Defendants



- aged about 31 years, Both Former & Both R/o Vill. Auri, Tahsil-Daundi lohara, Distt. Durg (C.G.).
5. Tikam S/o Shiv Lal, aged about 32 years, former & R/o Village Gandhari, Tahsil -Lohara, Distt. -Durg (C.G.).
 6. Tek Ram S/o Pis Ram Keshav Lal, aged about 29 years,
 7. Narad S/o Pis Ram Keshav Lal, aged about 27 years. (Former) both R/o Vill -Gandhari, Tah. Lohara, Distt. Durg (C.G.).
 8. Vishnu Lal S/o Bhukhan Lal, aged about 28 years, caste Teli,
 9. Yuvraj S/o Bhukhan Lal, aged about 27 years, caste-Teli,
 10. Sunil Kumar S/o Bhukhan Lal, aged about 22 years, caste Teli, All R/o Village -Auri, Tahsil-Daundi Lohara, Distt. Durg (C.G.).
 11. State of Chhattisgarh (M.P.) through : Collector Durg (C.G.).

SECOND APPEAL U/S 100 OF THE CODE OF CIVIL PROCEDURE.
(SB :Hon'ble Mr. T.P.Sharma, J.)

Present:- Mr. D.N. Prajapati, Advocate for the appellant.
Ms. Sangeeta Mishra, P. L. for the State/respondent No. 11.

ORAL- JUDGEMENT
(Passed on 30/04/2010)

1. This is a second appeal under Section 100 of the Code of Civil Procedure, 1908 (in short 'the Code') against the judgment and decree dated 4/10/2006 passed by Additional District Judge, Balod, District Durg in civil appeal No. 30-A/2000 affirming the judgment and decree dated 15/12/99 passed by Second Civil Judge Class-II, Balod in Civil Suit No. 142-A/98 whereby an ex parte proceeding against the present appellant trial Court has decreed the suit in favour of deceased Lakhan Lal brother of appellant and declared the share of appellant as 1/6th



over the property left by her father namely Sitaram same has been affirmed in the appeal vide judgment and decree impugned.

2. Mr. D.N. Prajapati, Advocate for the appellant and Ms. Sangeeta Mishra, P.L. for the State/respondent No. 11 are heard.
3. Learned counsel for the appellant argued that property was self acquired property of the Sitaram therefore appellant was entitled for $1/3^{\text{rd}}$ share over entire property left by Sitaram at the time of his death.
4. Record of Court below, judgment and decree of Courts below perused.
5. Appellant has not filed any suit for property was self acquired property of Sitaram interalia the evidence adduced on behalf of the deceased Lakhan Lal is sufficient to prove the fact that property was ancestral and Lakhan Lal was having $\frac{1}{2}$ share on the share of his father Sitaram since birth after death of Sitaram his heirs i.e. deceased Lakhan Lal, present appellant and respondent No. 2 being son and daughters were entitled for $1/3^{\text{rd}}$ share of the share of Sitaram i.e. each of the heirs were entitled for $1/3^{\text{rd}}$ of $\frac{1}{2}$ share thereby present appellant was entitled for $1/6^{\text{th}}$ share which both the Courts below has declared, I do not find any substantial question of law for decision of this present second appeal. Consequently, this second appeal is liable to be dismissed and is hereby dismissed.
6. No order as to costs.

Sd/-
T.P. Sharma
Judge

Single Bench

(1)

440/1

(4)

IN THE HIGH COURT OF CHHATTISGARH AT

BILASPUR

Second Appeal NO. 496/2006 (S.B.)

APPELLANTS

Plaintiff No. 1 to 2

: 1. Dev Dutt, aged 70 years

S/o Pyare Lal,

2. Ram Dutt, aged 60 years.

S/o. Pyare Lal

Both R/o. Janjgir,

Tahsil - Janjgir & Distt. - Janjgir-

Champa (C.G.)

VERSUS

RESPONDENTS

Defendent No.1 to 2

: 1. Sahodra Bai, aged 72 years

Wd/o- Awadh Ram, R/o Village-

Persahi, Tahsil-Janjgir, Distt. -

Janjgir-Champa (C.G.)

2. State of Chhattisgarh,

Through - : Collector, Janjgir-

Champa (C.G.)

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SECOND APPEAL U/S. 100 OF C.P.C.



संख्या 13

(21)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक S.A. 496/06 सन् 20

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	<p>SB : Hon'ble Shri Justice P. Sam Koshy. 12.12.2013</p> <p>Shri Ravindra Sharma under instruction of Shri H. V. Sharma, counsel for the appellants submits that he does not want to press the present second appeal as in due course the same has become infructuous.</p> <p>Accordingly, the second appeal is dismissed as having become infructuous.</p>	<p>Sd/- P. Sam Koshy Judge</p>