

CS 1601-

5  
(1)

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR  
(C.G.)

SECOND APPEAL NO. 341 OF 2014

APPELLANT

Plaintiff

Amoli, S/o Banshilal Satnami, aged  
about 52 years, R/o village Limahi,  
Post and Tahsil Balodabazar, Police  
Station City Kotwali, Civil and  
Revenue District Balodabazar-  
Bhatapara (C.G.)

P.R.No.

Presented by Shri

dated

SA 341/14  
P.K. Sehgal  
23/9/14

VERSUS

RESPONDENTS

Defendants

1. Santram S/o Fuldass Satnami, aged  
about 55 years, R/o village  
Limahi, Post and Tahsil  
Balodabazar, Police Station City  
Kotwali, Civil and Revenue District  
Balodabazar-Bhatapara (C.G.)
2. State of Chhattisgarh,  
Through: the Collector,  
Balodabazar, Civil and Revenue  
District Balodabazar-Bhatapara  
(C.G.)

SECOND APPEAL UNDER SECTION 100 OF THE CODE OF CIVIL  
PROCEDURE, 1908



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**HIGH COURT OF CHHATTISGARH AT BILASPUR****(Single Bench: Hon'ble Shri Justice P. Sam Koshy)****Second Appeal No. 341 of 2014****Appellant/  
Plaintiff**

Amoli

**VERSUS****Respondent/  
Defendants**

Santram and another

**Present:** Shri Pushpendra Ku. Patel, counsel for the appellant.  
Shri Sanjiv Ku. Agrawal, counsel for the State.

**ORAL ORDER  
(26.09.2014)**

The instant second appeal has been preferred by the appellant challenging the judgment and decree dated 17.07.2014 passed by Third Additional District Judge, Balodabazar, District Balodabazar-Bhatapara in Civil Appeal No. 13-A/13. By the said judgment, the first Appellate Court has affirmed the judgment and decree dated 25.10.2013 passed by Second Civil Judge Class I, Balodabazar in Civil Suit No. 59-A/2013.

2. Facts of the case in brief is that the appellant/plaintiff instituted a civil suit claiming declaration of title and permanent injunction in respect of the suit property bearing Khasra No.298 measuring 0.077 hectare in village Limahi, Tahsil Balodabazar. According to the plaintiff, the suit property was originally in the name of defendant No.1 who on 01.01.2000 had executed an agreement to sale the said land for a consideration of Rs.6,935 with the plaintiff and upon executing the agreement to sale, the

possession of the said land was handed over to the plaintiff. However, subsequently, defendant No.1 did not take proper steps to get the sale deed executed and since the plaintiff by virtue of the agreement dated 01.01.2000 had gained possession over the said property, he perfected his title by way of adverse possession and therefore the suit should be decreed in his favour.

3. The defendants were prosecuted ex-party. After considering the evidences which have come on record particularly that of PW-1 Amoli and PW-2 Chatur Das, the trial Court reached to the specific conclusion that the documents show that in the revenue records, the name of the owner of the suit property entered is that of defendant No.1 and the agreement to sale also having been not a registered document, the contention of the plaintiff cannot be accepted and therefore, the trial Court refused the claim of the plaintiff and rejected the suit of the plaintiff vide judgment dated 25.10.2013.

4. This judgment dated 25.10.2013 was put to challenge by way of first appeal in Civil Appeal No.13-A of 2013 in the Court of Third Additional District Judge, Balodabazar. The first appellate Court also on due consideration of the entire facts and circumstances of the case particularly in respect of the agreement to sale and the subsequent development that transpired between the two parties reached to the conclusion that the plaintiff has failed to show before the trial Court as to from which date he is in adverse possession and title holder of

the property and that the right accrued to property by way of adverse possession also has not been properly established by the plaintiff. For all these reasons, the first appellate Court also vide its order dated 17.07.2014 rejected the appeal preferred by the plaintiff.

5. It is these two judgments dated 25.10.2013 and 17.07.2014 passed by the trial Court as well as by the first appellate Court respectively which are put to challenge in the instant second appeal.

6. On due consideration of the contentions and submissions made by the counsel for the appellant/plaintiff and on perusal of the findings arrived at by the two Courts below it is evidently clear that the submissions and contentions put forth by the counsel for the appellant are pure finding of fact on which there is a concurrent finding given by the two Courts below. Further, all the objections raised by the appellant have already been duly considered and dealt with by both the Courts below and further there is no substantial question raised or which remains for adjudication by this Court in the second appeal stage.

7. In the result, the second appeal being devoid of merits is liable to be and is accordingly dismissed. No order as to cost.

Sd/-  
P. Sam Koshy  
Judge