

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet,

SA No. 79 of 2023

1. Ghasi Ram S/o Khem Singh Aged About 64 Years R/o Opp. Bus Stop, Mochi Para, Dongargarh, Tahsil Dongargarh, District Rajnandgaon, Chhattisgarh.(Defendant No.1 To 3)
2. Sanjay S/o Khem Singh Aged About 50 Years R/o Opp. Bus Stop, Mochi Para, Dongargarh, Tahsil Dongargarh, District Rajnandgaon, Chhattisgarh.(Defendant No.1 To 3)
3. Smt. Janki Bai W/o Late Bharat Singh Aged About 70 Years Caste- Rajput, R/o Village Jarwahi, Post Office Diwanbhedi, Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh. (Defendants No.1 To 3)
4. Virendra Singh S/o Late Bharat Singh Aged About 39 Years Caste- Rajput, R/o Village Jarwahi, Post Office Diwanbhedi, Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh. (Defendants No.1 To 3)
5. Surendra (Correct Name Is Surendra @ Munna Singh) S/o Late Bharat Singh Aged About 37 Years Caste- Rajput, R/o Village Jarwahi, Post Office Diwanbhedi, Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh. (Defendants No.1 To 3)
6. Raju S/o Late Bharat Singh Aged About 33 Years Caste- Rajput, R/o Village Jarwahi, Post Office Diwanbhedi, Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh. (Defendants No.1 To 3)
7. Ghanshyam Singh S/o Gajraj Singh Aged About 56 Years R/o Village Jarwahi, P.H. No.44, Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh. (Defendants No. 1 To 3)

---- Appellants

Versus

1. Ramchand S/o Nandu Aged About 54 Years (Ab-Original Tribe - Kanwar), R/o Village Jarwahi, Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh. (Plaintiffs)
2. Krishna S/o Dhanwa Aged About 44 Years (Ab-Original Tribe - Kanwar), R/o Village Jarwahi, Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh. (Plaintiffs)
3. Poshan S/o Dhanwa Aged About 34 Years (Ab-Original Tribe - Kanwar), R/o Village Jarwahi, Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh. (Plaintiffs)
4. Smt. Dhirja Bai W/o Gorelal Aged About 36 Years R/o Village Kandul, Tahsil Gundardehi, District Durg, Chhattisgarh. (Plaintiffs)
5. Krishna Kanwar S/o Preet Ram Kanwar Aged About 59 Years R/o Village Jarwahi, Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh. (Plaintiffs)

6. Jwal S/o Krishna Kanwar Aged About 39 Years R/o Village Jarwahi, Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh. (Plaintiffs)
7. Premu Ram S/o Krishna Kanwar Aged About 36 Years R/o Village Jarwahi, Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh. (Plaintiffs)
8. Kans S/o Krishna Kanwar Aged About 34 Years R/o Village Jarwahi, Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh. (Plaintiffs)
9. Hans S/o Krishna Kanwar Aged About 32 Years R/o Village Jarwahi, Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh. (Plaintiffs)
10. Suhag Bai W/o Late Kunjram Kanwar Aged About 51 Years R/o Village Jarwahi, Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh. (L.R's Of Defendant No.4)
11. Balram S/o Late Kunjram Kanwar Aged About 32 Years R/o Village Jarwahi, Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh. (L.R's Of Defendant No.4)
12. Tribhuwan Ram S/o Late Kunjram Kanwar Aged About 30 Years R/o Village Jarwahi, Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh. (L.R's Of Defendant No.4)
13. Chunu Ram S/o Late Kanwar Ram Kanwar Aged About 29 Years R/o Village Jarwahi, Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh. (L.R's Of Defendant No.4)
14. Mehtaru Ram S/o Late Sukhnandan Kanwar Aged About 40 Years R/o Village Jarwahi, Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh. (L.R's Of Defendant No.4)
15. Tikam Ram S/o Late Sukhnandan Kanwar Aged About 39 Years R/o Village Jarwahi, Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh. (L.R's Of Defendant No.4)
16. Parmeshwar S/o Late Sukhnandan Kanwar Aged About 35 Years R/o Village Jarwahi, Tahsil Dongargaon, District Rajnandgaon, Chhattisgarh. (L.R's Of Defendant No.4)
17. State Of Chhattisgarh Through The Collector, Rajnandgaon, District Rajnandgaon, Chhattisgarh. (Defendant No.5)

---- Respondents/Plaintiffs

(Cause title taken from CIS)

09.03.2023	Shri Ravindra Kumar Agrawal, counsel for the appellants. Shri Priyanshu Gupta, P.L. for the State/respondent No.17. Heard on admission. This appeal is admitted on the following substantial questions of law :-

“1. Whether, under the facts and circumstances of the case, the suit as framed and instituted questioning the registered deed of sales dated 09.01.1974 (Ex.P.4), 21.02.1974 (Ex.P.3), 16.10.1974 (Ex.P.5), 28.10.1974 (Ex.P.6), said to have been executed by Ramadhar to Sukhnandan Kanwar (defendant No.4), and the registered deed of sale executed on 20.06.1979 (Ex.P.7), said to have been executed by Sukhnandan Kanwar in favour of Khemsingh (defendant No.1), which have already been upheld by the Board of Revenue vide its order 14.08.2007 (Ex.D.1) in a proceeding initiated by the original plaintiff No.1 – Chamarin Bai under Section 170-B of the Chhattisgarh Land Revenue Code, 1959 (for short, the Code, 1959), could be held to be maintainable and / or is barred by the provisions prescribed under Section 257 of the said Code, 1959 ?

2. Whether, under the facts and circumstances of the case, the suit as framed and instituted on 03.04.1999 questioning the registered deed of sales (Ex.P.3 to Ex.P.6) executed in 1974 and the registered deed of sale (Ex.P.7) executed in 1979, is barred by time under Article 58 of the Indian Limitation Act, 1963 ?”

Issue notice to respondents No. 1 to 16 only, on payment of P.F. as per rules.

Counsel for the appellants is directed to supply the substantial questions of law as framed to the counsel for the State/respondent No.17 within a period of 15 days from today.

Also heard on I.A.No.01/2023, an application filed under Order 41 Rule 5 of the Code of Civil Procedure, 1908, praying for staying the effect and operation of the judgment and decree dated 11.11.2022 passed in Civil Appeal No.26-A/2018 pending decision of this appeal.

Issue notice on this application also to the said respondents, as above.

Meanwhile, purely as an interim measure, it is directed that the effect and operation of the impugned judgment and decree dated 11.11.2022 passed in Civil Appeal No.26-A/2018 by the 3rd Additional District Judge, Rajnandgaon (C.G.) shall

remain stayed till the next date of hearing in so far as it relates to possession part alone is concerned, subject to appellants' furnishing security amount of Rs.25,000/- before the concerned trial Court/Executing Court within a period of 45 days from today for due performance of the decree ultimately to be passed by this Court.

Post this matter after 5 weeks for consideration on I.A.No.01/2023.

Certified copy as per rules.

Sd/-

(Sanjay S. Agrawal)
Judge