

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WPS No. 2560 of 2020

Vijay Thakur & Anr. **Versus** State of Chhattisgarh & Ors.

17/10/2023	Mr. Manoj Kumar Sinha alongwith Mr. Ramcharan Sahu, counsel for the petitioner/s. Mr. Devesh Verma, Govt. Advocate for State/respondent No.1 & 2. Mr. Pankaj Agrawal, Advocate for respondent No.3. Heard I.A. No.1/2020, application for taking document on record. Learned counsel for the petitioner/s submits that in pursuance to the direction issued by this Court on 02.07.2020, he wants to produce the documents attached with the said application. On due consideration of the said application, it is allowed and the document produced alongwith the said application is hereby taken on record as Annexure P-9. I.A. No.1/2020, thus, stands disposed off. In view of the above, I.A. No.2/2020, application for condonation of delay in filing of same is disposed off. Also heard on admission. No notice is required to be issued as respondents have already made their appearances through their counsels. Learned counsel for the respondents prays for and is granted four weeks time to file reply. List the matter after four weeks. Sd/- (Sanjay S. Agrawal) Judge
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HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 72 of 2015**

- Bhagat Ram S/o Hari Ram Yadav Aged About 50 Years R/o Lawan, Post-Lawan, Police Station-Kasdol, Tahsil-Baloda Bazar, Revenue And Civil Distt. Baloda Bazar Bhatapara, Chhattisgarh

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1. Smt. Geeta W/o Manoj Satnami Aged About 36 Years R/o Lawan, Post-Lawan, Police Station-Kasdol, Tahsil-Baloda Bazar, Revenue And Civil Distt.- Baloda Bazar-Bhatapara, Chhattisgarh
2. Manoj S/o Sagun Das Satnami Aged About 40 Years R/o Lawan, Post-Lawan, Police Station-Kasdol, Tahsil-Baloda Bazar, Revenue And Civil Distt.-Baloda Bazar-Bhatapara, Chhattisgarh
3. State Of Chhattisgarh Thru- Collector Baloda Bazar-Bhatapara, Distt.- Baloda Bazar-Bhatapara, Chhattisgarh

---- Respondents

For Appellant on	:	Ms. N.K. Kashyap, Advocate appears behalf of Shri Pushpendra Kumar Patel, Advocate
For Respondent No.3/State:	:	Shri Sanjeev Kumar Agrawal, Panel Lawyer

Single Bench : Hon'ble Shri Justice Sanjay S. Agrawal**Judgment/Order on Board****01.02.2023**

1. This appeal has been preferred by the Plaintiff- Bhagat Ram under Section 100 of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'CPC'), questioning the legality and propriety of the judgment and decree dated 10.09.2014 passed in Civil Appeal No.1-A/2014, whereby, the learned appellate court while affirming the judgment and decree dated 30.11.2013 passed by the 2nd Civil Judge, Class-I, Baloda Bazar(CG) in Civil Suit No.74-A/2013, has dismissed the Plaintiff's

appeal. The parties to this appeal shall be referred hereinafter as per their description before the Court below.

2. Briefly stated the facts of the case are that the Plaintiff instituted a suit claiming declaration of title and also for possession with regard to the property in question bearing Khasra No.1828/1-क/1 admeasuring 74ft x 50ft, total 3700 sq. ft. situated at village Lawan, Tahsil Baloda Bazar, District Raipur. According to the Plaintiff, the Bhoomiswami right of the property in question was provided to him by the Naib Tahsildar, Baloda Bazar on 07.06.2002. However, Defendant Nos. 1 and 2 have forcefully taken the possession of 01 decimal out of the said land and trying to construct the building over it, and therefore, the Plaintiff has been constrained to institute the suit in the instant nature.
3. While denying the aforesaid claim of the Plaintiff, it is stated by Defendant Nos. 1 and 2 in their written statement that the Plaintiff in fact, is the owner of the other land, therefore, the suit as filed deserves to be dismissed. It is pleaded further on the ground that in Najri Naksha (spot map), it is not clear which is the property and which the Plaintiff is claiming his ownership and in absence of that no right, title or interest would, therefore, be conferred upon the Plaintiff.
4. From perusal of the record, it appears that the Plaintiff is claiming his ownership with regard to the property in question bearing Khasra No. 1828/1-क/1 admeasuring 3700 sq. ft. and in support of his claim, a certificate with regard to his Bhoomiswami right was placed on record, marked as Ex. P-1 and has submitted further the Khasra Panchashala for the year 2011-12, which has been marked as Ex.P-3. A bare perusal of the Khasra Panchashala(Ex.P-3) would show that the property in question is shown to be the 'Aabadi Land' and column '2' of the said

document would show that it is meant for गाँवठान (Gaothan) and column '3' of this document would show that none of the person's possession has been shown in column '3' of the said document. It appears further that at the note of the said document would show that the Plaintiff is in possession with regard to the said land.

5. In order to dispute the Plaintiff's claim, the Defendants have submitted the Khasra Panchashala for the same year, which has been marked as Ex.P-1 and a bare perusal of the said document would show that no such note has been mentioned therein. In so far as Ex. P-1, which has been issued by the Naib Tahsildar, Baloda Bazar providing Bhoomiswami right to the Plaintiff with regard to the property in question is concerned, the same, however, cannot be relied upon, as initially the Plaintiff has submitted the photocopy of the said document on 12.09.2011. A bare perusal of the said document would show that the other land, i.e. Khasra No.1628/1-क/1 admeasuring 3600 sq.ft., which is distinct from the land in question involved herein.
6. Apart from these documents, I do not find any other document showing that the Plaintiff has acquired any interest over the property in question. In view thereof, it is difficult to hold that the Plaintiff is the owner of the property in question and the Courts below have, therefore, rightly arrived at a conclusion that the Plaintiff has failed to establish his ownership with regard to the property in question and therefore, I do not find any infirmity in the same so as to call for any interference in this appeal.
7. In view of above, I do not find any question of law, much less the substantial questions of law, which arise for determination in this appeal.

8. The appeal being devoid of merits, is accordingly dismissed at the admission stage itself.

No order as to costs.

(Sanjay S. Agrawal)
JUDGE

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