

ITEM NO.4

COURT NO.6

SECTION XIA

S U P R E M E      C O U R T   O F   I N D I A  
R E C O R D   O F   P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).18221/2009

(From the judgement and order dated 06/08/2008 in SA No.366/2000 of  
The HIGH COURT OF ORISSA AT CUTTACK)

NIYATI SARANGI &amp; ORS.

Petitioner(s)

VERSUS

URABI LADIES CLUB OF JAMUHATA &amp; ORS.

Respondent(s)

(With prayer for interim relief and office report )  
(for final disposal)

Date: 08/02/2012      This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s)

Mr. Swetaketu Mishra, Adv.  
Mr. V.K. Monga, Adv. (Not present)

For Respondent(s)

Ms. Saanjh N. Purohit, Adv.  
Mr. Kirat Singh Nagra, Adv.  
  
Mr. Milind Kumar, Adv. (Not present)

UPON hearing counsel the Court made the following  
O R D E R

This petition is directed against the judgment of  
the learned Single Judge of the Orissa High Court whereby he  
dismissed the second appeal filed by the petitioners  
questioning the concurring finding recorded by the trial  
Court and the lower appellate Court that their predecessor,  
Shri Satish Chandra Sarangi, had failed to prove his claim

2

for title by adverse possession.

Shri Satish Chandra Sarangi filed suit for  
declaration of right, title, interest and possession of  
plaint 'B' Schedule land and for permanent injunction  
restraining respondent no. 2 herein from interfering in his  
peaceful possession over the suit land.

In the suit filed by him, Shri Satish Chandra

Sarangi pleaded that his father Manikar Sarangi was the Guru of Rajmata Late Manoj Manjari Bhanja Deo of Keonjhar and she gifted 'A' Schedule land measuring 0.12 Acres; that he also took possession of Schedule 'B' land, which is adjoining Schedule 'A' land and laid the foundation for construction of his house. He claimed that he was in possession of the suit land openly for more than 30 years and, thereby, acquired title by adverse possession. Shri Satish Chandra further pleaded that in the third week of March, 1993 respondent no. 2 claimed right over Schedule 'B' land and executed registered sale deed dated 12.2.1993 in favour of respondent no. 1.

The daughter of Rajmata Late Manoj Manjari Bhanja Deo, who was impleaded as defendant no. 3 in the suit did not file written statement. Respondent nos. 1 and 2 filed joint written statement and contested Shri Satish Chandra Sarangi's assertion that he was in open and uninterrupted possession of the suit land for more than 30 years.

On the pleadings of the parties, the trial Court framed nine issues including the following:

3

"7. Has the plaintiff acquired right, title and interest over the suit land by way of adverse possession?"

8. Is the sale deed no. 342 dated 10.2.1993 illegal, void and inoperative?"

After considering the evidence produced by the parties, the trial Court decided the above noted two issues against Shri Satish Chandra Sarangi and accordingly dismissed the suit.

The appeal preferred by the appellants, who were brought on record as legal representatives of Shri Satish Chandra Sarangi, was dismissed by the lower appellate Court which concurred with the trial Court that the plaintiff had

failed to prove his adverse possession over the suit land.

At the time of admission of the second appeal, the learned Single Judge of the Orissa High Court framed the following questions:

"Whether non-consideration of the documents, Exts. 1 and 2 by the appellate court would vitiate the finding?"

However, at the hearing of the appeal, learned counsel for the appellants contended that the findings recorded by the trial Court and the lower appellate Court that respondent no. 2 had inherited the estate of royal family of Keonjhar under the customary law was legally untenable.

The learned Single Judge considered both the questions and answered the same in negative by recording detailed reasons.

We have heard Shri Swetaketu Mishra, learned counsel for the petitioners and Ms. Saanjh N. Purohit, learned counsel for the respondent and carefully examined the record.

In our view, it is not necessary to consider the second question raised before the High Court because the finding recorded by the trial Court and the lower appellate Court that the plaintiff failed to prove his adverse possession over suit Schedule 'B' land was a pure finding of fact and the learned Single Judge rightly declined to interfere with the said finding. Learned counsel for the petitioner could not point out any patent error in the appreciation of evidence by the trial Court and the lower appellate Court. He also failed to show that the predecessor of the appellant was in continuous possession of Schedule 'B' land and his possession was hostile to the title of the owner. Therefore, we do not find any merit in the petitioners' challenge to the impugned judgment.

The special leave petition is accordingly dismissed.

(Parveen Kr. Chawla)  
Court Master

(Kusum Gulati)  
Court Master