

(2018) 09 CHH CK 0121
In the Chhattisgarh High Court
Case No : Second Appeal No. 412 Of 2003

Krishna Singh And Ors

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision : 07-09-2018

Acts Referred:

Madhya Pradesh Abolition Of Proprietary Rights (Estates, Mahals And Alienated Lands) Act, 1950 — Section 3, 4

Citation : (2018) 09 CHH CK 0121

Hon'ble Judges : Sanjay K. Agrawal, J

Bench : Single Bench

Advocate : Abhijeet Mishra, Arun Sao

Final Decision : Dismissed

Judgement

Sanjay K. Agrawal, J

1. Heard on admission.

2. The plaintiff's suit for declaration of title and permanent injunction was dismissed by the trial Court on merits as well as on the ground that the suit

was barred by limitation holding that Anjor Singh had no right to sell the property in favour of the plaintiff and it is vested in the State under Sections 3

and 4 of the M.P. Abolition of Proprietary Rights (Estates, Mahals and Alienated Lands) Act, 1950 (for short, 'the Act of 1950'), which was affirmed

by the first appellate Court against which this second appeal has been preferred.

3. Learned counsel for the appellants / plaintiffs No.2 to 4 submits that the impugned decree passed by the first appellate Court is unsustainable and

bad in law.

4. The trial Court has clearly held that Anjor Singh from whom the original

plaintiff is said to have purchased the suit property on 1-5- 1963, had no right to sell the property and the suit is also barred by limitation, as the order of vesting under Sections 4 and 5 of the Act of 1950 has been passed on 30-12-1970, whereas the suit was filed on 11-12-1979 only for declaration of title. The trial Court dismissed the suit which has been affirmed by the first appellate Court. Admittedly, order under Sections 4 and 5 of the Act of 1950 was passed way back on 30-12-1970 and suit was filed on 11-12-1979 for declaration of title which has rightly been held to be barred by limitation and particularly, the plaintiff even did not ask for declaration that the order of the competent officer under Sections 4 and 5 of the Act of 1950 is null and void, and has barely claimed declaration of title without questioning the order passed by the competent officer. Even otherwise, both the Courts below have concurrently held that Anjor Singh has no right to sell the property in favour of original plaintiff Devwati Bai who is said to be sister of Anjor Singh.

5. In view of the above, I do not find any substantial question of law for decision of this appeal. The second appeal deserves to be and is accordingly dismissed, in limine, leaving the parties to bear their own costs.