

(2019) 08 CHH CK 0203
In the Chhattisgarh High Court
Case No : Second Appeal No. 227 Of 2006

Surendra Kumar Singh	Vs	APPELLANT
Gram Panchayat Lamti Aashrit Gram- Tribhuvanpur And Ors		RESPONDENT

Date of Decision : 29-08-2019

Acts Referred:

Chhattisgarh Land Revenue Code, 1959 — Section 251
Madhya Pradesh Abolition Of Proprietary Rights Act, 1950 — Section 5(f)

Citation : (2019) 08 CHH CK 0203

Hon'ble Judges : Sanjay K. Agrawal, J

Bench : Single Bench

Advocate : Anand Gupta, Bharat Rajput, Mateen Siddiqui

Final Decision : Dismissed

Judgement

Sanjay K. Agrawal, J

1. The substantial question of law involved, formulated and to be answered in this second appeal preferred by the plaintiff states as under:-

Whether both the Courts below have erred in considering Exhibit P/10 & P/11 in its proper perspective which occasioned in dismissal of the suit ?

(For the sake of convenience, parties would be referred hereinafter as per their status and ranking shown in the suit before the trial Court.)

2. Plaintiff herein filed a civil suit stating inter alia that the suit tank was settled in the name of his uncle Lakhan Singh on 27/07/1955 vide Exhibit P11,

which has been illegally directed to be vested in favour of the State by order dated 07/12/1965. Questioning the said order of vesting the suit tank in

favour of the State, plaintiff preferred an appeal before the Additional Collector, Bilaspur, which was dismissed on 25/01/2000 holding the appeal to be

barred by limitation.

3. The civil suit filed by the plaintiff bearing No. 51-A/2003 was dismissed by the trial Court vide its judgment and decree dated 10/08/2005 holding

that the order of vesting is strictly in accordance with law as the suit tank had already been vested with the State under Section 251 of the

Chhattisgarh Land Revenue Code, 1959 by order dated 07/12/1965 against which plaintiff preferred an appeal before the Additional Collector,

Bilaspur in the year 2000, which was dismissed by order dated 25/01/2000 (Exhibit P4) holding the appeal to be barred by limitation.

4. Questioning the judgment and decree passed by the trial Court, plaintiff preferred a civil appeal whereby learned first appellate Court upheld the

findings recorded by the trial Court and dismissed the appeal vide judgment and decree dated 03/03/2006.

5. Being aggrieved by the judgment and decree passed by both the Courts below, this second appeal has been preferred by the plaintiff in which

substantial question of law has been formulated and set out in the opening paragraph of this judgment.

6. Mr. Anand Gupta, learned counsel appearing for the appellant/plaintiff would submit that both the Courts below have concurrently erred in not

considering Exhibit P10 and particularly, Exhibit P11, which is the order of Additional Deputy Commissioner, Mungeli, settling the suit tank in favour of

plaintiff's uncle namely Lakhan Lal Singh under Section 5 (f) of the Madhya Pradesh Abolition of Proprietary Rights Act, 1950, therefore, plaintiff is

the title-holder of the suit tank which has been illegally vested in favour of the State, as such, the impugned judgment and decree passed by both the

Courts below ought to be set aside.

7. Mr. Bharat Rajput, learned counsel appearing for respondents/defendants No. 1 and 4 would support the impugned judgment and decree.

8. I have heard learned counsel appearing for the parties, considered their rival submissions and perused the records with utmost circumspection.

9. It is not in dispute that the suit tank was vested with the State Government in exercise of the power conferred under Section 251 of the Land

Revenue Code, 1959 after serving notice and inviting objections, which was replied by the plaintiff vide Exhibit P12 and thereafter, order dated

07/12/1965 was passed by the revenue Court, vesting the suit tank in favour of the State, questioning which plaintiff preferred an appeal before the

Additional Collector, Bilaspur, which was dismissed on 25/01/2000 (Exhibit P4) holding the said appeal to be barred by limitation.

10. Both the Courts below have rightly held that Additional Collector, Bilaspur, in its order dated 25/01/2000 (Exhibit P4), has held that the order of

vesting of the suit tank was passed after issuing and serving notice to plaintiff's predecessor in title and they even filed an objection on 21/08/1965, as

such, the order dated 07/02/1965 vesting the suit tank in favour of the State is in accordance with law, and even otherwise, the appeal filed by the

plaintiff before the Additional Collector, Bilaspur was hopelessly barred by limitation therefore, the order dated 25/01/2000 (Exhibit P4) dismissing the

appeal of the plaintiff is also in accordance with law, which is neither perverse nor contrary to record.

11. Exhibits P10 and P11 dated 27/07/1955 have been considered by both the Courts below in its proper perspective while dismissing the suit of the

plaintiff holding that these orders have been passed prior to the vesting of the suit tank in favour of the State and thereafter, the order of vesting has

been passed on 07/12/1965. As such, I do not find any merit in the second appeal. Consequently, the substantial question of law has been answered in

favour of defendants and against the plaintiff.

12. The second appeal deserves to be and is accordingly dismissed. No order as to cost(s).

13. A decree be drawn up accordingly.