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**(2018) 09 CHH CK 0286**

**Chhattisgarh High Court**

**Case No:** Second Appeal No. 602 Of 2003

Shantanu Patel

APPELLANT

Vs

Gangadhar And Ors

RESPONDENT

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**Date of Decision:** Sept. 18, 2018

**Hon'ble Judges:** Sanjay K. Agrawal, J

**Bench:** Single Bench

**Advocate:** M.P.S. Bhatia, Vishnu Koshta, Avinash Singh

**Final Decision:** Dismissed

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### **Judgement**

Sanjay K. Agrawal, J

1. The plaintiff's suit for declaration that the sale deed dated 08.02.1990 executed by his grand-father Gangadhar (defendant No. 1 herein) is not

binding to him was dismissed by the trial Court and was duly affirmed by the First Appellate Court against which this second appeal has been

preferred.

2. Learned counsel for the appellant submits that both the Courts below are absolutely unjustified in dismissing the suit of the petitioner / plaintiff on

the ground which is perverse and contrary to law and it involves substantial question of law for determination.

3. I have heard learned counsel for the petitioner.

4. In a suit filed by the plaintiff declaring that the sale deed dated 08.02.1990 alienating the suit property by defendant No.1 to defendant No.2 is not

binding on him as he was born prior to the execution of the sale deed whereas the trial Court has clearly recorded a finding that the plaintiff has failed

to establish that he was born prior to the execution of the sale deed dated 08.02.1990 which has been duly affirmed by the First Appellate Court. The

findings recorded by the two Courts below holding that the plaintiff failed to establish his birth is prior to 08.02.1990 is a finding of fact based on

material available on record which is neither perverse nor contrary to law. As such, I do not find any substantial question of law for determination in

this second appeal.

5. Accordingly, the second appeal deserves to be and is hereby dismissed. No cost(s).