

(2018) 09 CHH CK 0289

Chhattisgarh High Court

Case No: Second Appeal No. . 494 Of 2004

Dulaya Bai And Ors

APPELLANT

Vs

Latel And Ors

RESPONDENT

Date of Decision: Sept. 18, 2018

Hon'ble Judges: Sanjay K. Agrawal, J

Bench: Single Bench

Advocate: Vimlesh Bajpai, Anand Kumar Gupta

Final Decision: Dismissed

Judgement

Sanjay K. Agrawal, J

1. The plaintiff's suit for declaration of title and permanent injunction was dismissed by the trial Court on the ground of limitation. On an appeal being preferred by the plaintiff, the First Appellate Court has reversed the judgment and decree of the trial Court and granted decree in favour of the plaintiff against which this second appeal has been filed by the defendants.

2. Mr. Vimlesh Bajpai, learned counsel appearing for the appellants / defendants would submit that the First Appellate Court has committed legal error in reversing the finding of the trial Court.

3. I have heard learned counsel for the appellants.

4. The trial Court has held that the plaintiff is the title holder of the suit land but dismissed the suit on the ground of limitation holding it to be barred by limitation which is reversed by the First Appellate Court stating inter-alia that the cause of action arose on 08.10.1987 and the suit was filed on 20.10.1987 which is within the period of limitation and the finding of the trial Court that the cause of action arose on 28.04.1979 is not based on

evidence. The finding recorded by the First Appellate Court that the suit filed is within limitation is a finding of fact based on material available on record. As such, I do not find any substantial questions of law for determination in this second appeal.

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