

Binda Bai And Ors Vs Brijbai And Ors

Court: Chhattisgarh High Court

Date of Decision: Sept. 27, 2018

Acts Referred: Code Of Civil Procedure 1908 " Section 100

Hon'ble Judges: Sanjay K. Agrawal, J

Bench: Single Bench

Advocate: A. D. Kuldeep, Amit Kumar Sahu, Arun Sao

Final Decision: Dismissed

Judgement

Sanjay K. Agrawal, J

1. This is defendants' second appeal under Section 100 of the CPC questioning the judgment and decree passed by the First Appellate Court whereby

and whereunder the said Court has affirmed the judgment and decree of the trial Court granting decree for specific performance of contract in favour

of plaintiff No. 1.

2. Learned counsel for the appellants / defendants submits that the concurrent finding recorded by the two Courts below granting decree in favour of

the plaintiff are based on perverse ground and contrary to law and it involves substantial question of law for determination.

3. The respondent No. 1/ plaintiff Smt. Brijbai filed a suit for specific performance of contract against the defendants that agreement to sell was

executed by the defendants on 28.06.1991 and delivered the possession to sell the suit land at the rate of Rs.38000/- per acre and obtained Rs.16000/-

from the plaintiff but failed to execute the sale deed leading to filing of the suit for specific performance of the contract. In the said suit, the defendant

denied the execution of agreement to sell and contested the suit.

4. The trial Court after appreciating the oral and documentary evidence on record came to the specific conclusion that an agreement of sale was

entered into between the parties on 28.06.1991 for sale of the suit land for Rs. 26,600/- and defendants obtained Rs.16000/- from the plaintiff and the

plaintiff is ready and willing to perform her part of contract and is entitled for the decree of specific performance of contract which was upheld by the

First Appellate Court.

5. The two Courts below have concurrently held that the defendants executed agreement to sell in favour of plaintiff and plaintiff is ready and willing

to perform her part of contract. The finding recorded by the two Courts below is a finding of fact based on evidence available on record. As such, I

do not find any perversity or illegality much less for determination of substantial question of law in this second appeal.

5. Accordingly, the second appeal deserves to be and is hereby dismissed with no order as to cost(s). A decree be drawn up accordingly.