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Court : Madhya Pradesh

Decided On : Mar-05-2014

Appellant : Arvind Kumar

Respondent : Tilak Singh Judgement Given By: Hon'ble Shri Justice Anil Sharma

Judgement :

Second Appeal No.15 / 2006.

5/3/2014.

Shri J.A.Shah, Advocate for the appellant.

Heard on admission.

This second appeal under Section 100 of CPC has been filed by the appellant / plaintiff against the judgment and decree dated 13.09.2005 passed by Additional District Judge, Gadawara, District Narsinghpur (MP) in Regular Civil Appeal No.18-A/2004, confirming the judgment and decree dated 11.05.2004 passed by learned Civil Judge Class-II, Gadawara, District Narsinghpur (MP) in Civil Suit No.103- A/2003, rejecting the suit filed by the appellant / plaintiff for possession of agricultural land sold by the father of the appellant / plaintiff i.e.respondent No.1 to the respondent No.2.

Both the courts below have given concurrent finding that the plaintiff has not filed the suit for partition of the sold land and has also not impleaded his brother as party who is also having equal share in the ancestral property and further rejecting the suit mainly on the ground that the plaintiff himself has admitted that the marriage of his sister took place immediately after 4 days of the alleged sale of the land to the respondent No.2 and further admitted that there was bank loan also and some articles were also purchased on credit, therefore, confirming the fact that the land was sold to meet the financial need of the family for 2 which the father of the appellant is entitled under the law.

Learned counsel for the appellant has submitted that the sale deed does not mention that the land has been sold for fulfillment of financial need of the family but the financial need of the family is to be gathered from the circumstances and the plaintiff himself has admitted the financial need at the time of execution of the registered sale deed.

Sale deed has been executed by the father of the appellant and his father has also admitted in his written statement that the land has been sold for refund of the loan amount of the Bank and marriage of his daughter and earlier also, he has sold the land to one Basant Kumar at the time of marriage of other son Virendra Kumar.

Therefore, looking to admission of appellant and father both, both the courts below are justified in giving concurrent finding.

Concurrent finding of both the courts below is based on facts only and there is no substantial question of law involved in this appeal.

Consequently, appeal is dismissed.

(Anil Sharma) Judge Parouha/-

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