

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE DWARKA DHISH BANSAL**

ON THE 15th OF JULY, 2025

SECOND APPEAL No. 2325 of 2005

LALITA BAI AND OTHERS

Versus

***COMPETENT AUTHORITY (CEILING) & COLLECTOR AND
OTHERS***

Appearance:

Shri Avinash Zargar - Advocate for the appellants.

Shri Ramji Pandey - Govt. Adv. for the State/respondent 1.

None for the respondents 2-7.

ORDER

This second appeal has been preferred by the appellants/plaintiffs challenging the judgment and decree dated 07.09.2005 passed by District Judge, East Nimar, Khandwa, in civil appeal no.05A/2005 affirming the judgment and decree dated 17.02.2005 passed by 1st Civil Judge Class-I, Khandwa, in civil suit no.12A/2003 whereby Courts below have concurrently dismissed the plaintiffs' suit filed for declaration of title as well as for cancellation of order dated 06.09.1989 passed by competent Authority in ceiling case no.1-A/90/B-3/88-89 and for permanent injunction.

2. Learned counsel for the appellants submits that the suit land survey nos.397, 218/3 and 261 total area 9 acres belonged to defendants 4-5 (Kanhaiyalal and Lala), who sold it to Omkar vide registered sale deed dated 01.04.1953, then Omkar sold the land to

defendant 6-7 (Chunnilal and Champalal Singh) vide registered sale deeds dated 10.06.1974 (Ex.P/2 & P/3). Thereafter, plaintiffs' husband and father namely Hiralal purchased it vide regd. sale deed dtd. 19.04.1976 (Ex.P/4) from defendants 6-7, which are valid and legal sale deeds and were not executed with a view to defeat the provisions of the Ceiling on Agricultural Holdings Act, 1960 (hereinafter in short 'the Ceiling Act'). He submits that although the order passed on 06.09.1989 by competent Authority has been challenged with the prayer for its cancellation, but the order has not been placed on record either by the plaintiffs or by the respondents/competent authority, who is claiming the suit land belonging to State Government on the premise of it has been declared surplus. He further submits that the plaintiffs are not original holders of the lands and taking this Court to the proviso to Section 11 of the Ceiling Act, he submits that the plaintiffs were entitled to computation of land in Omkar's share and consequently ought to have been declared owners of the suit lands ingnoring the order dtd.06.09.1989. With these submissions, he prays for admission of the second appeal.

3. Learned counsel appearing for the respondent 1/State supports the impugned judgment and decree passed by Courts below and prays for dismissal of the second appeal.

4. Heard learned counsel for the parties and perused the record.

5. Upon due consideration of the oral and documentary evidence available on record, Courts below have concluded that in the ceiling proceedings started vide ceiling case no.7/90(B)-3/74-75, the statement of Omkar was recorded on 05.01.1976 and Omkar sold the land on 10.06.1974 to the defendants 6-7 and thereafter, they sold it to

father of the plaintiffs on 19.04.1976 i.e. during pendency of the ceiling proceedings and as such concluded that the sale deeds (Ex.P/2 and P/4) were executed just with a view to defeat the provisions of the Ceiling Act and on the basis of such sale deeds the defendants 6-7 or the plaintiffs did not get any right.

6. First Appellate Court in paragraph 11 of its judgment and trial Court also in its judgment, have upon due consideration of the oral and documentary evidence held that originally the land belonged to Bulaki (father of Kanhaiyalal, Lala and Heeralal) who sold it to Omkar on 01.04.1953 and as this transaction was a of loan transaction, therefore, Kanhaiyalal, Lala and Heeralal again purchased the said land from Omkar. In this view of the matter, Omkar himself was not owner of the land from whom, the land is said to have been purchased by the defendants 6-7. In the plaint also the plaintiffs have alleged the suit land belonging to the defendants 4-5 (Kanhaiyalal and Lala), hence title of the plaintiffs also comes under the clouds.

7. After arguing at length, learned counsel for the appellants have not been able to point out any illegality in the judgment and decree passed by Courts below.

8. Resultantly, in absence of any substantial question of law, this second appeal fails and is hereby **dismissed** at the stage of admission itself.

9. Pending application(s), if any, shall also stand disposed of.

(DWARKA DHISH BANSAL)
JUDGE

