

1
IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE
HON'BLE SHRI JUSTICE DWARKA DHISH BANSAL
ON THE 29th OF NOVEMBER, 2022

SECOND APPEAL No. 923 of 2015

BETWEEN:-

**BARELAL S/O SHRI BATTILAL, AGED ABOUT 56
YEARS, VILLAGE GURAIYA, TEH. CHHATARPUR
(MADHYA PRADESH)**

.....APPELLANT

(BY SHRI R.S. MEHNIDRATTA - ADVOCATE)

AND

1. **DEENDAYAL S/O LATE SHRI PARAM BRAMHIN,
AGED ABOUT 80 YEARS, VILLAGE GURAIYA,
TEH. CHHATARPUR (MADHYA PRADESH)**
2. **LAXMAN S/O PARAM BRAMHIN, AGED ABOUT
77 YEARS, VILLAGE GURAIYA, TEH.
CHHATARPUR (MADHYA PRADESH)**
3. **BALADEEN S/O PARAM BRAMHIN, AGED
ABOUT 75 YEARS, VILLAGE GURAIYA, TEH.
CHHATARPUR (MADHYA PRADESH)**
4. **GOKUL S/O PARAM BRAMHIN, AGED ABOUT 70
YEARS, VILLAGE GURAIYA, TEH. CHHATARPUR
(MADHYA PRADESH)**
5. **RAMAASRE S/O LATE BANDI LUHAR, AGED
ABOUT 40 YEARS, VILLAGE GURAIYA, TEH.
CHHATARPUR (MADHYA PRADESH)**
6. **RAMGOPAL S/O LATE BANDI LUHAR, AGED
ABOUT 30 YEARS, VILLAGE GURAIYA, TEH.
CHHATARPUR (MADHYA PRADESH)**
7. **COLLECTOR (CHHATARPUR) COLLECTOR DIST.
CHHATARPUR (MADHYA PRADESH)**

.....RESPONDENTS

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This appeal coming on for hearing this day, the court passed the following:

ORDER

Heard on **I.A no.11423/22**, which is an application for leave to file second appeal.

2. Learned counsel for the appellant Barelal submits that despite being necessary party to the civil suit no.1A/13 and civil appeal no.16-A/14, he was not made party to the *lis* and the respondents 1-6 by impleading the respondent 7/State as party, have got decreed the suit for declaration of title and permanent injunction with regard to agriculture land Khasra no.239/1 area 1.226 Hectare situated in Village Guraiya, Tahsil and District Chhatarpur, from the first appellate Court, whereas civil suit no.1A/13 was dismissed by 3rd Civil Judge Class-II, Chhatarpur.

3. By showing the order dated 17.07.2012 passed by Commissioner, Sagar Division, Sagar in appeal no.219/A/6/2008-2009 (Deendayal and others vs. Barelal) and another order dated 18.09.2007 passed by Tahsildar, Tahsil Chhatarpur and further by showing the judgment and decree dated 25.06.2014 passed by Additional Civil Judge to the Court of 1st Civil Judge Class-II, Chhatarpur in civil suit no.25-A/13 (Barelal Luhar vs. Gokul Bajpai and others), learned counsel for the appellant submits that appellant-Barelal was necessary party to the civil suit in question and the judgment and decree dated 26.11.2014 passed in civil appeal no.16A/14 is not binding on the appellant.

4. As per Office report, this second appeal has been filed with the delay of 167 days, which in the existing facts and circumstances of the case, is hereby condoned.

5. It is well settled that a person who is not party to the litigation is not

bound by the judgment and decree, if any, passed by any Court, therefore, without entering into the merits and demerits of the claim of the appellant Barelal, it is directed that the judgment and decree dated 26.11.2014 passed in civil appeal no.16A/14 which arose out of judgment and decree dated 28.03.2014 passed in civil suit no.1A/13 shall not bind the appellant.

6. With the aforesaid observation, the second appeal is **disposed off** and further the appellant is at liberty to file appropriate proceedings before appropriate forum with regard to his rights/possession..

7. Pending application(s), if any, shall stand disposed off.

pb



(DWARKA DHISH BANSAL)
JUDGE