



CGHC010015912019



2026:CGHC:42308

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

SA No. 46 of 2019

1 - Laxminarayan Soni S/o Shri Keshav Prasad Soni Aged About 53 Years R/o Gandhinagar, Ratanpur, Tahsil- Kota, Civil And Revenue District- Bilaspur, Chhattisgarh.....(Plaintiff)

... Appellant (s)

versus

1 - State Of Chhattisgarh Through The District-Collector, Bilaspur, Civil And Revenue District- Bilaspur, Chhattisgarh

2 - Tahsildar Kota, Tahsil Kota, Civil And Revenue District- Bilaspur, Chhattisgarh

3 - Shri R. Vinayak Swa Sahayata Samuh Ward No. 2, Gandhinagar, Ratanpur, Tahsil- Kota, Civil And Revenue District- Bilaspur, Chhattisgarh

4 - Shail Jaiswal W/o Shri Kamlesh Jaiswal Aged About 38 Years R/o Ward No. 2, Gandhinagar, Ratanpur, Tahsil-Kota, Civil And Revenue District-Bilaspur, Chhattisgarh.....(Defendants)

... Respondent(s)

For Appellant (s) : Shri Parasmani Shriwas, Advocate

For Respondent/State : Shri Anand Gupta, Dy.G.A.

({Hon'ble Shri Justice Sachin Singh Rajput})

Judgment on Board

29/09/2026

Heard on admission.

The appellant, who is the plaintiff, has filed this appeal under Section 100 of

the Civil Procedure Code, 1908 (for short 'CPC') being aggrieved by the judgment and decree dated 16/11/2018 passed by the Additional District Judge, Bilaspur, District-Bilaspur, CG in Civil Appeal No.44-A/2017 (for short '1st appellate Court'). By the impugned judgment and decree, the learned 1st appellate Court dismissed the first appeal filed by the appellant/plaintiff under Section 96 of the CPC and affirmed the judgment and decree dated 15/03/2017 passed in Civil Suit No.22-A/2009 by the Civil Judge, Class-II, Kota, District-Bilaspur CG. dismissing the suit of the appellant/plaintiff for declaration of title and permanent injunction on account of adverse possession.

2. The parties are herein after referred to as their status before the trial Court.

The suit property is comprised in khasra No.3453 area 0.51 dismil out of which 112 sq. mtr. of grass land is situated at village-Ratanpur, Gandhinagar, P.H.No.16, RIC-Ratanpur, Block and Tahsil-Kota, District-Bilaspur. Seeking declaration of title of the suit property on account of adverse possession and permanent injunction, the suit was filed by the plaintiff. According to the plaintiff, he is a landless person and is in occupation of the suit property for the last 30 years and has constructed a shed and running an electric welding shop for the last two years. Earlier the suit property was a Government grass land and was having a pit which was repaired by the plaintiff after spending huge money and the possession of the plaintiff was never objected by the public at large. He is in possession of the suit property and earning his livelihood. A notice dated 16/06/2009 was issued by the Additional Tahsildar, Ratanpur, upon which a case under Section 248 of the C.G. Land Revenue Code, 1959 was registered which was replied by him and also prayed for rehabilitation of the suit land for his name. He was fined by Rs.3,000/- by the Tahsildar. Thereafter, respondent No.3 demanded the said land from the Government and also made a complaint and vide order dated 20/08/2009 passed by the Tahsildar, he was directed to remove the possession. Reading of the above basic facts, the civil suit for declaration of title and permanent injunction was filed. Respondents No.1 and 2 basically denied the averments adverse to them and pleaded that proceedings to evict the plaintiff is a judicial procedure and it cannot be enjoined by the Civil Court.

3. Following issues have been framed by the learned trial Court-

“i. Whether on the basis of adverse possession, the plaintiff has become the owner of 112 square meter land out of the Government Grass Land Khasra No. 3453, area 0.51 dismil situated in Village-Ratanpur Gandhinagar P.H.No.16,

Revenue Corporation Board, Ratanpur, Block and Tehsil Kota, District-Bilaspur (CG) ?

ii. Whether the plaintiff is entitled to obtain permanent injunction against the defendants in respect of the disputed land?"

4. The plaintiff examined as many as three witnesses and exhibited 13 documents and defendants examined as many as two witnesses and exhibited 21 documents.

5. Issue No.1 was decided as not proved and ultimately the suit was dismissed leading to filing of the First Appeal which was also dismissed by the impugned judgment and decree.

6. Learned counsel for the appellant/plaintiff submits that the plaintiff is in possession of the suit property for more than 30 years and he has perfected the title on account of adverse possession. Later on, on a complaint made by respondent No.3, proceedings to evict the plaintiff was initiated which resulted into an order by the Tahsildar. By that time, the appellant had already perfected his title against defendants No.1 and 2. Thus, the finding so recorded by both the Courts below are perverse to the record and issue no.1 and 2 ought to have been decided in favour of the plaintiff. Therefore, he submits that the substantial question of law as proposed in the memo of appeal may be formulated as it is involved in the appeal.

7. Learned State counsel supports the impugned judgment and decree.

8. The plaintiff has filed the suit for declaration of title on account of adverse possession and also sought perpetual injunction against defendant No.2 which is the State. The admitted fact is that the suit property is a Government grass land. According to the plaintiff, he is in occupation of the said land for more than 30 years and has perfected the title. His possession was uninterrupted. From the records, it appears that proceedings were drawn by the revenue authorities for eviction of the appellant. Thus, he submits that his possession was uninterrupted, peaceful and continuous.

9. The law with regard to perfection of title on the basis of adverse possession is no longer *res integra*. A Constitution Bench of Hon'ble Supreme Court in the case of **M. Siddiq (dead) through LRs. (Ram Janmabhumi Temple case) vs. Mahant Suresh Das and ors.** reported in (2020) 1 SCC 1 in paragraph 1142-1143 held as

under:-

“1142. A plea of adverse possession is founded on the acceptance that ownership of the property vests in another against whom the claimant asserts a possession adverse to the title of the other. Possession is adverse in the sense that it is contrary to the acknowledged title in the other person against whom it is claimed. Evidently, therefore, the plaintiffs in Suit 4 ought to be cognizant of the fact that any claim of adverse possession against the Hindus or the temple would amount to an acceptance of a title in the latter. Dr. Dhavan has submitted that this plea is a subsidiary or alternate plea upon which it is not necessary for the plaintiffs to stand in the event that their main plea on title is held to be established on evidence. It becomes then necessary to assess as to whether the claim of adverse possession has been established.

1143. A person who sets up a plea of adverse possession must establish both possession which is peaceful, open and continuous possession which meets the requirement of being *nec vi nec* claim and *nec precario*. To substantiate a plea of adverse possession, the character of the possession must be adequate in continuity and in the public because the possession has to be to the knowledge of the true owner in order for it to be adverse. These requirements have to be duly established first by adequate pleadings and second by leading sufficient evidence. Evidence, it is well settled, can only be adduced with reference to matters which are pleaded in a civil suit and in the absence of an adequate pleading, evidence by itself cannot supply the deficiency of a pleaded case. Reading paragraph 11(a), it becomes evident that beyond stating that the Muslims have been in long exclusive and continuous possession beginning from the time when the Mosque was built and until it was desecrated, no factual basis has been furnished. This is not merely a matter of details or evidence. A plea of adverse possession seeks to defeat the rights of the true owner and the law is not readily accepting of such a case unless a clear and cogent basis has been made out in the pleadings and established in the evidence.”

10. This judgment was relied upon by the Hon’ble Supreme Court in the case of **Uttam Chand (Dead) through LRs vs. Nathu Ram (dead) through LRs** reported in (2020) 11 SCC 263 in para 15. In case of **M. Karim vs. Mst Bibi Sakina**

reported in **AIR 1964 SC 1254**, the Hon'ble Supreme Court observed as under:-

“Adverse possession must be adequate in continuity, in publicity and extent and a plea is required at the least to show when possession becomes adverse so that the starting point of limitation against the party affected can be found. here is no evidence here when possession became adverse, if it at all did, and a mere suggestion in the relief clause that there was an uninterrupted possession for "several 12 years" or that the plaintiff had acquired "an absolute title" was not enough to raise such a plea. Long possession is not necessarily adverse possession and the prayer clause is not a substitute for a plea.”

11. In case of **Ravinder Kaur Grewal and ors. vs. Manjit Kaur and ors.** reported in **(2019) 8 SCC 729**, Hon'ble Supreme Court observed as under:-

“60. The adverse possession requires all the three classic requirements to co-exist at the same time, namely, *nec vi* i.e. adequate in continuity, *nec clam* i.e., adequate in publicity and *nec precario* i.e. adverse to a competitor, in denial of title and his knowledge. Visible, notorious and peaceful so that if the owner does not take care to know notorious facts, knowledge is attributed to him on the basis that but for due diligence he would have known it. Adverse possession cannot be decreed on a title which is not pleaded. *Animus possidendi* under hostile colour of title is required. Trespasser's long possession is not synonym with adverse possession. Trespasser's possession is construed to be on behalf of the owner, the casual user does not constitute adverse possession. The owner can take possession from a trespasser at any point in time. Possessor looks after the property, protects it and in case of agricultural property by and the large concept is that actual tiller should own the land who works by dint of his hard labour and makes the land cultivable. The legislature in various States confers rights based on possession.”

12. Following observation was made by the Hon'ble Supreme Court in case of **Chatti Konati Rao & Ors vs. Palle Venkata Subba Rao** reported in **(2010) 14 SCC 316** with regard to plea of adverse possession:-

“15. *Animus possidendi* as is well known a requisite ingredient of adverse possession. Mere possession does not ripen into possessory title until possessor holds property adverse to the title of the true owner for

the said purpose. The person who claims adverse possession is required to establish the date on which he came in possession, nature of possession, the factum of possession, knowledge to the true owner, duration of possession and possession was open and undisturbed. A person pleading adverse possession has no equities in his favour as he is trying to defeat the rights of the true owner and, hence, it is for him to clearly plead and establish all facts necessary to establish adverse possession. The Courts always take unkind view towards statutes of limitation overriding property rights. Plea of adverse possession is not a pure question of law but a blended one of fact and law.”

13. In light of the above authoritative judgments, the plaintiff in order to acquire title on adverse possession was required to plead and prove (i) on what date he came into possession, (ii) what was the nature of his possession, (iii) whether the factum of possession was known to the defendants/respondents, (iv) how long his possession was continued, (v) his possession was open and undisturbed, (vi) date on which his possession became adverse.

14. In the opinion of this Court, the abovestated ingredients have not been fulfilled by the plaintiff by leading prudent and cogent evidence. When his possession is under the risk of eviction, he cannot claim that he has perfected the title on account of adverse possession. Learned trial Court has meticulously examined the oral and documentary evidence on record and thus, decided the issue against the plaintiff. The finding of fact recorded by the learned Civil Judge has also been affirmed by the 1st appellate Court. It is well settled that for admission of a second appeal under Section 100 of CPC, formulation of a substantial question of law is *sine qua non* as held by the Hon’ble Supreme Court in **Sir Chunilal V. Mehta and sons Ltd. vs. Century Spinning and Manufacturing Co. Ltd.** reported in **AIR 1962 SC 1314** and in the matter of **Chandrabhan (Deceased) through LRs. & Ors. vs. Saraswati & Ors.** reported in **2022 SCC OnLine SC 1273**.

15. In the present case, no substantial question of law arises for consideration. Thus, the appeal fails and is accordingly dismissed at the admission stage. No order as to cost. Decree be drawn.

Sd/-

(Sachin Singh Rajput)
JUDGE