



CGHC010161962026

2026:CGHC:43869
NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****SA No. 315 of 2026**

- 1** - Kuberam Sahu S/o Sampatram Sahu Aged About 53 Years R/o Village Soram, Tehsil And District- Dhamtari (C.G.)
- 2** - Tarun Kumar Sahu S/o Kuberam Sahu Aged About 33 Years R/o Village Soram, Tehsil And District- Dhamtari (C.G.)
- 3** - Gopendra Sahu S/o Kuberam Sahu Aged About 26 Years R/o Village Soram, Tehsil And District- Dhamtari (C.G.)
- 4** - Umeshwari Bai W/o Tulsiram Sahu Aged About 29 Years R/o Village Dokla Post And Tehsil Charama, District- Uttar Bastar Kanker (C.G.)
- 5** - Rukhmani Bai W/o Kshetrapal Aged About 25 Years R/o Village Nawagaon, Post Kandel, Tehsil and District- Dhamtari (C.G.)

... Appellant(s)**versus**

- 1** - Triveni Bai W/o Rohit Sahu Aged About 49 Years R/o Village Soram Bhatgaon, Tehsil And District- Dhamtari (C.G.)
- 2** - State of Chhattisgarh Through Collector, District- Dhamtari (C.G.)

... Respondent(s)

For Appellant(s) : Ms. Sweksha Sharma, Advocate

For Respondent(s) : Mr. Anand Gupta, Government Advocate

Hon'ble Shri Justice Sachin Singh Rajput**Judgment on Board****09/10/2026**

1. Heard on admission.
2. This second appeal has been filed by the appellants/defendants under Section 100 of Civil Procedure Code, 1908 ("for short C.P.C"), against the judgment and decree dated 19.03.2026 passed by the learned First Additional Judge to the Court of District Judge

Dhamtari, District Dhamtari (C.G.) in Civil Appeal No.06/2023, whereby the first appeal filed under Section 96 of the CPC by the appellants/defendants was dismissed and affirmed the judgment and decree dated 20/12/2022 passed by the learned Second Civil Judge, Class-I, Dhamtari, District Dhamtari (C.G.) in Civil Suit No.27A/2019, whereby the suit filed by the plaintiff was allowed.

The parties are hereinafter referred to as per their status before the learned Trial Court.

3. The plaintiff had filed a civil suit seeking declaration of title and for vacant possession and permanent injunction in respect of the suit property comprised in piece of Khasra No.1450 part, admeasuring 3810 square feet, which is an Purani Abadi land comprised, in which a Kaveluposh Makan Maye Anganbadi, properly described in map and appended with the plaint, is situated at village Soram, PH No.19, RIC, Tehsil and District Dhamtari (C.G.).
4. According to the pleadings, a Bhumiswami Patta was granted in favor of the parents of the plaintiff in the year 2001-2002 by the Naib Tehsildar Dhamtari in Revenue Case No. 07A/66 year 2001-02. It is further pleaded that the defendants No.1 to 5 have thrown out the plaintiff by assaulting her from the suit property, which was reported to the Police Station Dhamtari, however, no inquiry was conducted. The plaintiff is residing in other house and by any means working as a labour is living her life. She made a request to the defendants to vacate the suit property, however, the defendants No. 1 to 5 denied the same and threatened her that if the plaintiff tries to enter in the suit property, she would be eliminated. Thus, the suit seeking the above-stated relief was filed.
5. The defendants No.1 to 5 have filed their written statement and admitted the fact that the plaintiff is the legally wedded wife of

defendant No.1 and without any divorce, she is residing with one Rohit Sahu, living a life of adultery. The father of the plaintiff brought the defendant No.1 as son-in-law (*Gharjamai*) and a Will Deed and agreement was executed by the father of the plaintiff, Late Sukhlal. It has been further pleaded that the defendant No.1 is in occupation of the suit property since the marriage with the plaintiff and suit is liable to be dismissed. Defendant No.6/State remained *ex-parte* before the learned Trial Court.

6. On the basis of above broad pleadings, the learned Trial Court framed the following issues:

1.	Whether the plaintiff is the sole owner of the suit property?	<i>“Not Proved”</i>
2.	Whether the plaintiff is entitled to obtain possession of the suit property?	<i>“Proved”</i>
3.	Whether the plaintiff is entitled to a decree of permanent injunction against Defendant Nos. 1 to 5?	<i>“yes”</i>
4.	Whether the suit filed by the plaintiff is barred by limitation?	<i>Not Proved.</i>
5.	Whether the suit has been properly valued and the requisite court fee has been paid by the plaintiff?	<i>“yes”</i>
6.	Relief and costs.	As per paragraph No. 20 of the judgment.

7. In order to prove the pleadings, the plaintiff examined himself as PW-1 and exhibited the Patta, ExP-1. The defendants No. 1 to 5 examined as many as four witnesses and exhibited 8 documents.

8. The learned Trial Court, on assessment of the evidence, found the issue number 1 as not proved, issue number 2 as proved, issue number 3 in positive, issue number 4 not proved, and issue number

5 as in positive or in affirmative, and in issue number 6 granted the following decree as under:

(1).The relief sought by the plaintiff for declaration of ownership over the suit property, being a portion of Khasra No. 1450, admeasuring 3,810 square feet, is hereby rejected.

(2).Defendant Nos. 1 to 5 are directed to deliver possession of the suit property to the plaintiff within 30 days from the date of the judgment.

(3).Defendant Nos. 1 to 5 are restrained from interfering, in any manner whatsoever, with the plaintiff's possession of the suit property in future.

(4).The map annexed to the plaint shall form part of this judgment and decree.

(5).Both parties shall bear their respective costs of the suit.

(6).Advocate's fee shall be payable as per rules, subject to the submission of the requisite certificate.

9. Challenging the same, the defendants No.1 to 5 have preferred a first appeal before the learned First Appellate Court. By the impugned judgment and decree, the same was also dismissed, which led to filing of this second appeal.
10. Learned counsel for the appellants/defendants No. 1 to 5 vehemently argued that the findings recorded by the learned Trial Court in respect of all the issues are erroneous, contrary to the evidence available on record, and is bad in law. She further submits that the father of the plaintiff (father-in-law of defendant No.1) has executed a Will Deed by which he bequeathed the suit property in favor of the defendant No.1. Both the courts below have not considered this aspect of the matter in its proper perspective and held that the Will, (Ex.-D.1) could not be proved in accordance with law. Thus, the findings so recorded by the learned Trial Court and as affirmed by the

learned First Appellate Court are perverse to the record, which requires to be set aside, and the substantial question of law as proposed in the memo of appeal arises for consideration, this appeal deserves to be admitted. She further submits that before the First Appellate Court, another *Patta* was filed in favor of the defendant No.1, which has been illegally rejected.

11. I have heard the learned counsel for the parties and also perused the material available on record.
12. Plaintiff brought its suit at the strength of a *Patta* of Bhumiswami right was granted in favor of her parents. The *Patta* was exhibited as Ex.P-1 in respect of suit property. The defendants claimed that the said *Patta* is forged, however, the learned Trial Court found that no document was filed by the defendants No.1 to 5 to hold that the said *Patta* was forged one. The defendant No. 1 took a defense that the suit property was bequeathed in his favor by the father of the plaintiff and exhibited the Vasiyatnama, Ex.D-7. The learned Trial Court held that the Will Deed was executed on 10/12/1990, which is an unprivileged Will and contains the signature of Mahesh Ram Pardeshi, Dev Prasad, and Bisohar Ram as attesting witness. The learned Trial Court also found that none of the attesting witnesses were examined before the learned Trial Court and, thus, the will was not proved in accordance with Section 68 of the Evidence Act, 1872. Hence, the learned Trial Court held that the defendant No.1 could not prove the Will and thus, no benefit can be derived by him, this finding of fact has been affirmed by the learned First Appellate Court.
13. Apart from this, the evidence of the plaintiff is quite vivid that the suit property was given in *Patta* to her parents and there is no dispute to the fact that she being the daughter, was entitled to inherit the suit property. The learned Trial Court, looking to the nature of the *Patta*

held that it is only granted for the utilization, and thus, denied the relief of declaration of title; however, granted relief for delivery of vacant possession and permanent injunction in favor of the plaintiff.

14. The finding so recorded by the learned Trial Court, affirmed by the First Appellate Court is based on proper appreciation of evidence and on meticulous assessment of material available on record. Under any stretch of imagination, these findings cannot be said to be perverse to the record.
15. The submission has been made by Ms. Swaksha Sharma that further a *Patta*, which was granted to the defendant No.1 was placed on record by filing an application under Order 41, Rule 27 of CPC before the First Appellate Court, which has been illegally rejected.
16. On perusal of the impugned judgment, particularly paragraphs No. 13 & 14, the learned First Appellate Court has categorically discussed the reasons, which has been assigned that in the trial, the alleged document of *Patta* was granted to defendants No. 1 to 5 in the year 2018 and no defense was taken by them during the pendency of the civil suit. Further, the defense of the defendants No.1 to 5 was in respect of one Will Deed and an agreement, thus, does not find any merits in the application under Order 41, Rule 27 of CPC. The finding recorded by the learned First Appellate Court is a reasonable finding, based on proper appreciation of material available on record, which does not requires any interference by this Court. It is well settled that for admission of a second appeal under Section 100 of the 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. v. 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.**

After hearing the learned counsel for the parties, on meticulous examination of the record and also discussion made hereinabove, this Court does not find any substantial question of law which arise for consideration before this Court. Thus, appeal fails, deserves to be and is hereby **dismissed**. Interim order dated 17.07.2026 passed by this Court, stands vacated. Decree be drawn accordingly. No order as to costs.

Sd/-
(Sachin Singh Rajput)
Judge

vaishali