



CGHC010225102026

2026:CGHC:39060

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

SA No. 429 of 2026

HIFZURRAHMAN
ANSARI

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1 - Ramlal Sahu S/o Gopal Sahu Aged About 40 Years Resident Of Village Parsahi, Tahsil Patan, District- Durg (C.G.)

2 - Smt. Damin Bai W/o Ramlal Sahu Aged About 35 Years Resident Of Village Parsahi, Tahsil Patan, District- Durg (C.G.)

... Appellants

versus

1 - Gyan Singh Mahar S/o Jailal Mahar Aged About 60 Years Resident Of Village Parsahi Tahsil Patan District- Durg (C.G.)

2 - State Of Chhattisgarh Through- Collector Durg District- Durg (C.G.)

... Respondent(s)

For Appellants	:	Mr. Praveen Dhurandhar, Advocate
For Respondent No. 1	:	Mr. Dewendra Swarnakar, Advocate
For Respondent No. 2	:	Mr. Narayan Prasad, PL

(Hon’ble Shri Justice Sachin Singh Rajput)

Judgment on Board

01.09.2026

1. This second appeal has been preferred under Section 100 of the Code of Civil Procedure, 1908 (for short, “the CPC”) questioning the legality, correctness and validity of the judgment and decree dated 08.05.2025 passed by the learned District Judge, Patan, District Durg (C.G.) in Civil Appeal No.203/2024 (for short, “learned First Appellate Court”).

2. By the impugned judgment and decree, the appeal preferred by the defendants under Section 96 of the CPC came to be dismissed and the judgment and decree dated 14.12.2023 passed by the learned Civil Judge, Class-I, Patan, District Durg (C.G.) in Civil Suit No.39-A/2019 (for short, “learned Trial Court”) was affirmed.
3. For the sake of convenience, the parties shall hereinafter be referred to as they were arrayed before the learned Trial Court.
4. The case of the plaintiff in brief is that the suit property comprises a portion of Khasra No.598, admeasuring 0.12 hectare, together with a mud house standing thereon, situated at Village Parsahi, Tahsil Patan, District Durg (C.G.). According to the plaintiff, he was residing in the suit property during the lifetime of his father Jailal. After the death of his father on 12.01.2015, the plaintiff continued in possession of the suit property and was using the house for keeping manure, seeds, paddy and other agricultural articles. According to him, the defendants approached him seeking the house for residential purposes and on his permitting them to occupy the house without consideration, subject to their paying the electricity charges, the defendants were allowed permissive occupation thereof. It is further the case of the plaintiff that in his absence, the defendants also started using the vacant portion of the suit property for agricultural purposes. When the plaintiff objected to such use and sought to enter the suit property, the defendants allegedly denied him access and quarrelled with him, thereby dispossessing him from the suit property. Consequently, the plaintiff instituted the suit seeking eviction of the defendants as well as permanent injunction in respect of the suit property.
5. The defendant Nos. 1 & 2 resisted the suit by filing their written statement and pleaded that the suit property did not belong exclusively to the plaintiff and

that the plaintiff had no right or title over the same. It was pleaded that the defendants had purchased the suit property and that the property was jointly owned but the other co-owner had not been impleaded as a party. It was further pleaded that an oral agreement for sale had been entered into on 02.09.2012 for a total consideration of Rs.1,50,000/- out of which Rs.55,000/- was paid on 02.09.2012 and a further sum of Rs.60,000/- was paid to the plaintiff on 10.04.2014. On these grounds, the defendants contended that the suit was not maintainable and was liable to be dismissed.

- 6. Defendant No.3/State did not file any written statement.
- 7. The plaintiff examined 5 witnesses and exhibited 11 documents in support of his case. The defendants examined one witness in their defence.
- 8. On the basis of the pleadings of the parties, the learned Trial Court framed the following issues:

1. Whether the suit land bearing Khasra No. 598, admeasuring 0.12 hectares, along with the mud house constructed thereon, is owned by the plaintiff?	“Proved.”
2. Whether the plaintiff is entitled to obtain a judgment and decree for eviction of the defendants from the aforesaid land and the house constructed thereon?	“Proved”
3. Whether the plaintiff is entitled to a decree of permanent injunction restraining the defendants from interfering with the plaintiff’s possession over the aforesaid suit land and the house constructed thereon?	“Proved.”
4. Relief and costs.	“In accordance with the findings of the Trial Court contained in paragraph 16 of the judgment.”

- 9. Upon appreciation of the oral and documentary evidence available on record, the learned Trial Court answered Issues No.1 to 3 in favour of the plaintiff and

decreed the suit. Aggrieved thereby, the defendants preferred a first appeal under Section 96 of the CPC before the learned First Appellate Court. The said appeal was dismissed by judgment and decree dated 08.05.2025.

10. Learned counsel appearing for the appellants/defendants submits that both the Courts below have committed an error of law as well as of fact in decreeing the suit in favour of the plaintiff. He submits that the plaintiff failed to establish his exclusive title and possession over the suit property by cogent and reliable evidence. He further submits that the defendants had specifically pleaded that the suit property had been agreed to be sold to them for a total consideration of Rs.1,50,000/- and that substantial amounts had already been paid to the plaintiff towards the said consideration and the said defence has not been properly appreciated by the Courts below. He further submits that the learned Courts below placed undue reliance upon the revenue records and other documents and failed to properly appreciate the oral evidence adduced on behalf of the defendants. He further submits that the testimony of Manoj Kumar Sahu could not have been discarded merely on the basis of certain statements made during cross-examination, particularly when his examination-in-chief supported the case of the defendants. He submits that findings recorded by the learned trial Court as well as the learned first appellate Court suffer from material irregularity in appreciating the evidence, therefore, appeal deserves admission on the substantial questions of law proposed in the memo of appeal.
11. Per contra, learned counsel appearing for respondent No.1/plaintiff supports the judgments and decrees passed by the learned trial court as well as learned first appellate Court and submits that the plaintiff duly established his title and possession over the suit property on the basis of the oral and documentary

evidence on record. He further submits that both the Courts below have concurrently recorded findings of fact upon proper appreciation of evidence, which are neither perverse nor contrary to the record. Therefore, he submits that no substantial question of law arises for consideration and the appeal may be dismissed at admission stage.

12. Learned counsel appearing for respondent No.2/State submits that the dispute is essentially between the plaintiff and the private defendants and that the State is only a formal party to the proceedings.
13. I have heard learned counsel for the parties and perused the record with utmost circumspection.
14. The plaintiff instituted the suit asserting his title and right to possession over the suit property and pleaded that the defendants were inducted therein only by way of permissive occupation. On the other hand, the defendants did not merely deny the title of the plaintiff rather, they set up a specific and positive defence that the suit property had been agreed to be sold to them for a consideration of Rs.1,50,000/- and that substantial part of the consideration had already been paid.
15. The learned Trial Court upon consideration of the evidence led by the parties, recorded a finding in favour of the plaintiff on Issue No.1. The said finding was based upon the revenue records and other documentary material produced by the plaintiff, including the documents relating to the proceedings before the revenue authorities, RI report and Panchnama as well as the oral evidence adduced on his behalf. The learned Trial Court also considered the specific defence of the defendants regarding the alleged sale transaction. Significantly, no documentary evidence to show that the alleged sale transaction was adduced by the defendants. The defendants relied upon the oral testimony of

Manoj Kumar Sahu, who according to their case, was present at the time of the alleged payment. However, while the said witness supported the case of the defendants to some extent in his examination-in-chief, his testimony in cross-examination did not support the alleged sale transaction and he expressed ignorance regarding the alleged sale of the suit property to the defendants. Further, the other witness Janki Kumar Sahu was not examined. Thus, the learned Trial Court found that the defendants had failed to establish the alleged transaction of sale or the payment of consideration as pleaded by them. The learned First Appellate Court considered the material available on record and concurred with the findings recorded by the learned Trial Court.

16. The specific defence of the defendants regarding the alleged sale transaction was a matter which required them to establish the same. Having failed to adduce any documentary evidence and further having failed to establish the alleged payment through reliable evidence, the Courts below were justified in rejecting the said defence. Once the title of the plaintiff over the suit property and his entitlement to possession were found proved and the defendants failed to establish any legally enforceable right to continue in possession, the decree for eviction and consequential relief of injunction could not be said to suffer from any illegality warranting interference in second appeal.
17. 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. Upon a careful consideration of the entire material on record, this Court is of the

considered view that no substantial question of law arises for determination in the present appeal. The findings recorded by the Courts below are concurrent findings of fact and do not suffer from perversity or error of law.

18. Consequently, the present second appeal, being devoid of any substantial question of law, deserves to be and is hereby **dismissed**.

19. At this stage, learned counsel for the appellants submits that 8 months' time may be granted to the appellants to vacate the suit property. Learned counsel for respondent No.1/plaintiff has not seriously opposed this prayer.

20. Considering the facts and circumstances of the case and in the interest of justice, the appellants/defendants are granted time up to **28.02.2027** to peacefully vacate and hand over vacant possession of the suit property to respondent No.1/plaintiff, subject to compliance with the decree and without creating any third-party interest or altering the nature of the suit property in the meantime. It is made clear that upon expiry of the aforesaid period, the appellants shall be liable to hand over vacant possession of the suit property in terms of the decree.

21. Decree be drawn accordingly.

Sd/-

(Sachin Singh Rajput)

JUDGE

H. Ansari