

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No.68 of 2009**

Kunwar Singh, S/o. Shri Bishesar Rawat, aged about 58 years,
Occupation Agriculture, R/o Village Pathra, Tahsil Pandariya,
District Kabirdham (CG).

---- Appellant

Versus

1. Kaliram, S/o Shri Ghasiram Satnami, aged about 65 years,
R/o Village Khairwar, Dashrangpur, Tahsil Kawardha,
District Kabirdham (CG).
2. Mastram @ Mahantram, S/o. Shri Banau Satnami, aged
about 55 years, R/o Village Kusrail, Tahsil and District
Raipur (CG).
3. State of Chhattisgarh, through Collector, Kawardha, District
Kabirdham (CG).

---- Respondents

For Appellant : Shri Santosh Bharat, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

26/08/2016

(1) Heard on admission.

(2) The plaintiff's suit for declaration of title over the scheduled
suit land was granted by the trial Court holding that he has validly
purchased the suit land by a registered sale deed dated 13.6.1968
from Banau and plaintiff is exclusive title holder of the suit land and
the suit is not barred by limitation.

(3) On appeal being filed by the defendant, the first appellate Court dismissed the same and affirmed the judgment and decree of the trial Court. Against which, this appeal under Section 100 of the Code of Civil Procedure, 1908 ('the CPC' in short) has been filed by the defendant/appellant.

(4) Shri Santosh Bharat, learned counsel appearing for the appellant, would submit that the concurrent finding recorded by two Courts below holding that the plaintiff has validly purchased the suit land from Banau by registered sale deed is a finding, which is wholly perverse to the record and, therefore, liable to be set aside.

(5) I have heard learned counsel appearing for the appellant and perused the records of the Courts below with utmost circumspections.

(6) After hearing learned counsel for the appellant, I find that the finding recorded by the two Courts below holding that the plaintiff has purchased the suit land by registered sale deed from Banau is a concurrent finding based on evidence available on record. I do not find any perversity or illegality in the said finding and there is no substantial question of law involved in this appeal for admission.

(7) Recently, the Supreme Court in the case of **Vishwanath Agrawal, S/o Sitaram Agrawal Vs. Sarla Vishwanath Agrawal**¹, has held that High Court should not disturb the concurrent finding of

1 (2012) 7 SCC 288

fact, unless finding recorded is perverse being based on no evidence. Paras 36 & 37 of the said decision are as under:-

“**36.** In *Major Singh Vs. Rattan Singh*² it has been observed that when the Courts below had rejected and disbelieved the evidence on unacceptable grounds, it is the duty of the High Court to consider whether the reasons given by the Courts below are sustainable in law while hearing an appeal under Section 100 of the Code of Civil Procedure.

37. In *Vidhyadhan Vs. Manikrao*³ it has been ruled that the High Court in a second appeal should not disturb the concurrent findings of fact unless it is shown that the findings recorded by the Courts below are perverse being based on no evidence or that on the evidence on record no reasonable person could have come to that conclusion. We may note here that solely because another view is possible on the basis of the evidence, the High Court would not be entitled to exercise the jurisdictions under Section 100 of the Code of Civil Procedure. This view of ours has been fortified by the decisions of this Court in *Abdul Raheem V. Karnataka Electricity Board*⁴.

(8) Keeping in view, the ratio of law laid down by the Supreme Court in the aforesaid case, the concurrent finding of fact recorded by both the Courts below is based on evidence available on record and it is neither perverse nor contrary to the record. No substantial question of law is involved in this second appeal.

² (1997) 3 SCC 546: AIR 1997 SC 1906

³ (1999) 3 SCC 573

⁴ (2007) 14 SCC 138 : AIR 2008 SC 956

(9) Consequently, the second appeal is dismissed at the admission stage itself without notice to other side.

Sd/-
(Sanjay K. Agrawal)
Judge

G/-