

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Second Appeal No.322 of 2005**

Shirish Lal, S/o. Shri Madhukar Lal, aged 28 years, Caste-Christian, R/o. In front of Durga Talkies, Rajnandgaon, Distt.Rajnandgaon (CG)

---- Appellant

**Versus**

1. The Veslion Board of Education Institution Registration No.22402 Through Secretary, Tankapara, Rajnandgaon, Distt.Rajnandgaon (CG)
2. Keshav Rao S/o. Late Shri S. Rao, aged 58 years, R/o. Kaurinbhata, Stadium Road, Rajnandgaon (CG)
3. Manohar Lal, S/o Shri Sonulal, aged 55 years, R/o Railway School Colony, Dongargarh, Tah. & Distt.Rajnandgaon (CG)

---- Respondents

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| For Appellant | : Mr.Rajeev Shrivastava with Mr.Malay Shrivastava and Ms Jyoti Rathore, Advocates |
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**Hon'ble Shri Justice Sanjay K. Agrawal****Order on Board****30/09/2016**

1. The plaintiff filed a suit for declaration and permanent injunction stating inter-alia that order of termination issued by the respondent No.1/Society is null and void.
2. The trial Court by its judgment and decree dated 6.12.2003 held that order of termination is not null and void and the appellant is not entitled for any relief.
3. Being dissatisfied with the aforesaid judgment and decree, the appellant preferred first appeal before the First Appellate Court,

which was dismissed by the First Appellate Court vide judgment and decree impugned.

4. Against which, this second appeal under Section 100 of the CPC has been filed.

5. Learned counsel appearing for the appellant would submit that finding recorded by both the Courts below is perverse and contrary and it give rise to substantial question of law.

6. I have heard learned counsel appearing for the appellant, perused the judgment and decree impugned and records of the Courts below.

7. The concurrent finding recorded by two Courts below is a finding of fact based on evidence available on record. It is neither contrary to record nor it is perverse.

8. The Supreme Court in the case of **Vishwanath Agrawal, S/o Sitaram Agrawal Vs. Sarla Vishwanath Agrawal**<sup>1</sup>, has held that High Court should not disturb the concurrent finding of fact, unless finding recorded is perverse being based on no evidence. Para-36 & 37 of report states as under:-

“36. In **Major Singh Vs. Rattan Singh**<sup>2</sup> 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.

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1 (2012) 7 SCC 288

2 (1997) 3 SCC 546: AIR 1997 SC 1906

**37.** In **Vidhyadhan Vs. Manikrao**<sup>3</sup> 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**<sup>4</sup>.

9. Keeping in view the ratio of law laid down by the Supreme Court in the aforesaid cases, 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 appeal.

10. Accordingly, the appeal deserves to be and is accordingly dismissed. No order as to cost(s).

Sd/-

(Sanjay K Agrawal)  
Judge

B/-

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3 (1999) 3 SCC 573

4 (2007) 14 SCC 138: AIR 2008 SC 956