

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No.679 of 2015**

Alijan Ansari son of Alim Sheikh, aged about 60 years, Occupation Business, R/o. Bouripara, P.S. and Tahsil Ambikapur, District Surguja (CG)

----Appellant

Versus

1. Smt.Halima Khatoon wife of Shri Mohammad Salim, aged 40 years, Occupation house wife, R/o. Atal Awas (Gandhinagar), P.S. Gandhinagar, Tahsil Ambikapur, District Surguja (CG)
2. State of Chhattisgarh, Through : The Collector, Surguja, Ambikapur (CG)

---- Respondents

For Appellant	:	Mrs.Hamida Siddique, Advocate
For Res.No.1	:	Mr. A.K.Prasad, Advocate
For Res.No.2	:	Mr.Sameer Behar, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

24/06/2016

1. Heard on admission.
2. This is appellant's/defendant's second appeal under Section 100 of the Code of Civil Procedure.
3. The plaintiff's suit for recovery of possession and permanent injunction based on title was decreed by the trial Court holding that the plaintiff is title holder of the suit land and she is entitled to get possession of the suit land.
4. In the appeal filed by the appellant/defendant, the First Appellate Court affirmed the finding of the trial Court by dismissing the appeal holding that the defendant has not preferred any counter-claim for specific performance of contract based on Ex.D/3, which is unregistered sale deed.

5. In second appeal filed by the defendant, Mrs.Hamida Siddique, learned counsel, would submit that the suit was not properly valued, it was barred by limitation and as such, the suit is liable to be dismissed and question of valuation and limitation would rise two substantial question of law for determination of this appeal.
6. A bare perusal of the plaint would show that question of valuation of suit has not been specifically raised in the written statement filed by the defendant and question of limitation, though it has been raised, it appears it has not been pressed and as such, no issues were raised before the trial Court and no plea with regard to limitation and valuation appears to have been raised before the First Appellate Court.
7. The trial Court as well as the First Appellate Court have concurrently found that the plaintiff is owner of the suit land and no title is transferred to defendant No.1 by Ex.D-3 i.e. unregistered sale deed and as such, the plaintiff is entitled for decree for recovery of possession.
8. After hearing learned counsel for the parties and after gone through the records of the Courts below, I do not find any substantial question of law for admission of this appeal. The finding recorded by the Courts below regarding the title of the plaintiff is concurrent finding of fact and there is no perversity in the same.
9. Consequently, the appeal being without substance is liable to be and is accordingly dismissed at the admission stage itself.

Sd/-

(Sanjay K. Agrawal)

JUDGE

B/-