

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 149 of 2014**

Baliram, S/o Jagat Satnmai, aged about 41 years,
Occupation – Agriculture, R/o village – Dharamgarh, P.H.
No.32, Tahsil-Sahaspur Lohara, Distt.- Kabirdham (C.G.)

---- Appellant**Versus**

1. Jagrakhan, S/o Firanta, aged about 66 years, caste- Mehar,
R/o Village Dharamgarh, P.H. No.-32, Tahsil-Sahaspur
Lohara, Distt.- Kabirdham (C.G.)
2. State of Chhattisgarh, Through- Collector, Kabirdham, Distt.
Kabirdham (Kawardha) [C.G.]

---- Respondents

For Petitioner:	Mr. Sanjay Patel, Advocate.
For Respondents/State:	Mr. Sameer Behar, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****21/07/2016**

Heard.

(1) Plaintiff's suit for declaration of exclusive title, permanent injunction and possession over the suit land came to be dismissed by the trial Court by judgment & decree dated 14.06.2013.

(2) First appeal preferred there-against was also dismissed vide judgment and decree impugned. Hence this Second Appeal.

(3) Mr. Sanjay Patel, counsel for the appellant would submit that concurrent finding recorded by both the courts below holding that the plaintiff's is not exclusive title holder of the suit land is a finding based on no evidence and is perverse to the record and that give rise a substantial question of law for determination in this appeal.

(4) I have heard learned counsel appearing for the appellant and perused the records of both the courts below.

(5) The concurrent findings recorded by both the courts below with regard to ownership of the plaintiff is a finding of fact based on material available on record and I do not find it either perverse or contrary to record and no question of law much less substantial question of law is involved in this appeal.

(6) 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 fact, unless finding recorded are perverse being based on no evidence. Para-36, 37 of report 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.

1 (2012) 7 SCC 288

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

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 jurisdiction 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. Karnaraka Electricity Board*⁴.”

(7) 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, no substantial question of law is involved in this appeal, thus appeal deserves to and accordingly dismissed at admission stage itself. No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-

3 (1999) 3 SCC 573

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