

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No. 558 of 2015

Kishore Singh S/o Shri Komal Singh, Aged About 45 Years Caste-
Rajput, R/o Village- Selar, Tahsil And District Raipur, Chhattisgarh

---- Appellant

Versus

State Of Chhattisgarh Through: The Collector, Bilaspur, District
Bilaspur, Chhattisgarh

---- Respondent

For appellant - Shri Atanu Ghosh, Advocate.
For respondent/State – Shri Sangarsh Pandey, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

12/02/2016

1. Heard on application for condonation of delay.
2. The appeal is barred by 190 days. It is stated that the appellant has migrated to another place to earn his livelihood as labour, therefore the delay in filing the appeal be condoned. No reply has been filed by the respondent/State.
3. On due consideration, delay in filing the appeal is condoned.
4. Heard on admission.
5. Instant appeal is by the appellant/plaintiff. It was case of the plaintiff that for a land situated at RI Circle Beltara, Tahsil and District Bilaspur appellant/plaintiff was in possession of 5 acres of land out of the entire land of 95.02 acres bearing khasra No.1297 from 25 to 30 years and was cultivating. During such possession, in order to show the possession the appellant also contended that he has paid tax to the Irrigation Department which shows that the appellant is in possession of the land. Documents have been exhibited Ex.P-1 notice and no objection from the Gram Panchayat Seler Ex.P-2. The notice issued to the appellant for payment of the water tax Ex.P-3 and tax receipt Ex. P-4 and likewise Ex.P-10 to P-14 receipts given by the Irrigation Department and thereby it is stated that the appellant was in continuous

possession adverse to the State. Therefore, it is in knowledge of the State for last 30 years, therefore a declaration/injunction was prayed for.

6. Learned counsel submits that the appellant/plaintiff was in possession of the government land for last 30 years which is not been disputed. Consequently, finding of both the court below that from which date he is in possession is perverse as entire tax has been continuously paid.

7. I have heard the argument of both the parties. Perused the documents. Documents though have been exhibited and it has been proved according to the primary evidence to prove the possession. On the contrary, it is on record that on 11/12/2002 appellant/plaintiff was served with the notice that he has encroached upon government land. Documents would show further it is not on record to substantiate that from which date appellant/plaintiff was holding possession to the knowledge of the defendant/State and this facts are absent that despite the fact that defendant was in know of the fact that appellant was holding land adverse to the knowledge of the defendant/State the State was dormant. The finding of fact arrived at by both the court below is that the appellant/plaintiff has not been able to prove as to from which date he was holding property adverse to the State. After perusal of the document, I am of the opinion that no perversity has been committed and consequently finding of fact arrived at by both the court below cannot be faulted with.

8. Accordingly, appeal has no merit and no substantial question of law arises for consideration in this second appeal. It is dismissed at the motion stage.

Sd/-

(Goutam Bhaduri)

JUDGE