

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No. 687 of 2015

1. Kundan S/o Late Ruraha Cherwa, Aged About 51 Years
2. Nandan S/o Late Ruraha Cherwa, Aged About 51 Years

Both R/o Village - Bargaien, P.S. & Tahsil- Ambikapur, Distt.-
Surguja, CG

Appellants/Defendant No. 5 & 6

Versus

1. Smt. Urmila Singh W/o Jangalnath Singh, Aged About 30 Years R/o
Village- Nawagaien, P.S. & Tahsil- Ambikapur, Distt.- Surguja,
Chhattisgarh

Respondent/Plaintiff

2. Ramnarayan S/o Balwant Chik, Aged About 50 Years
3. Kunwar Singh S/o Ronha, Aged About 45 Years
4. Chamaru Ram S/o Balwant Chik, Aged About 43 Years
5. Parbatiya W/o Angad Singh, Aged About 45 Years

Respondents 2 to 5 R/o village Bargaien, P.S. & Tahsil- Ambikapur,
Distt.- Surguja, CG

6. State Of Chhattisgarh, Through The Collector- Surguja, Ambikapur,
Distt.- Surguja, Chhattisgarh.

--- Respondent 2 to 6/Defendants

For Appellants	:	Shri A.N. Pandey Advocate
For Respondents 1 to 5	:	Shri Manoj Paranjape, Advocate
For Respondent No.6	:	Shri Vaibhav Goverdhan, PL

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

17/10/2016

Heard on admission.

2. Appellants/defendants have preferred this second appeal under

Section 100 of the Code of Civil Procedure (for brevity “CPC”) against the judgment and decree dated 3.11.2015 passed by 1st Additional District Judge Ambikapur (Sarguja) in Civil Appeal No. 27/2013 affirming the judgment and decree dated 30.7.2013 passed by 1st Additional Civil Judge Class-I Ambikapur (Sarguja) in Civil Suit No. 183-A/2012.

3. Respondent No.1/plaintiff filed a suit for declaration, possession and permanent injunction against defendants 1 to 6. According to the plaintiff, suit land was purchased by her vide registered sale deed dated 18.10.2004 from one Baban Ram. It is the case of the plaintiff that after execution of the sale deed her name came to be recorded in the revenue records and since then she is in possession of the suit land and cultivating the same. Her further case is that the defendants have illegally started construction work on her land and damaged the crop standing thereon and for that she had complained to the revenue and police authorities but nothing has been done.

4. Trial Court framed the issues and answering the same in favour of the plaintiff decreed the suit and rejected the claim of the defendants on the ground of adverse possession. Against the judgment and decree passed by the trial Court first appeal was preferred by the defendants which however has also been dismissed by the first appellate court vide judgment and decree impugned herein affirming the findings of the trial Court.

5. Counsel for the appellants/defendants submits that the plea of adverse possession was taken by the defendants in the trial Court and that execution of sale deed in favour of the plaintiff by Baban Ram itself was not in accordance with law and therefore the findings of both the Courts below in decreeing the suit are erroneous.

6. Replying to the arguments advanced by the counsel for the

appellants/defendants, it has been submitted by the counsel for the respondent/plaintiff that all the points have been duly considered by both the Courts below and therefore no interference is called for with the concurrent findings so recorded.

7. Heard counsel for the parties and perused the documents on record.

8. From the material available on record it is apparent that after due appreciation of the evidence, oral and documentary, adduced by the parties the trial Court has recorded the findings in favour of the plaintiff which has subsequently been affirmed by the lower appellate Court as well. There does not appear any perversity in the concurrent findings recorded by both the Courts below requiring interference by this Court in exercise of appellate jurisdiction under Section 100 CPC. Fortifying its earlier decisions being *Vidhyadhar v. Manikrao* (1999) 3 SCC 573 and *Abdul Raheem v. Karnataka Electricity Board* (2007) 14 SCC 138, the Apex Court in the matter of ***Vishwanath Agrawal S/o Sitaram Agrawal v. Sarla Vishwanath Agrawal*** reported in (2012) 7 SCC 288 has held that the concurrent findings recorded by Courts below cannot be disturbed until and unless they are perverse or contrary to law. Relevant portion of the said judicial pronouncement reads as under:

“37...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.”

9. Thus in view of the above factual and legal background, there

appears to be no perversity in the concurrent findings recorded by both the Courts below and being so this second appeal does not involve any question of law much less the substantial question of law.

10. In the result, this appeal being devoid of any substance is liable to be dismissed and it is dismissed as such at the admission stage itself. No order as to costs.

Sd/-

(Pritinker Diwaker)

Judge

Jyotishi