

HIGH COURT OF CHHATTISGARH, BILASPURSecond Appeal No.157 of 2006

Angad, Aged about 35 years, S/o Chungu Lodhi, Occupation Agriculturist, R/o Village Lodhipara, Arang, Tah. Arang, District Raipur (C.G.)

(Defendant No.1)
---- Appellant

Versus

1. Laxman, Aged about 50 years, S/o Jhannalal Lodhi, Occupation Agriculturist, R/o Village Lodhipara, Arang, Tah. Arang, District Raipur (C.G.)

(Plaintiff)

2. State of Chhattisgarh, Through Collector, Raipur, District Raipur (C.G.)

(Defendant No.2)
---- Respondents

For Appellant:	Mr. Manoj Paranjpe, Advocate.
For Respondent No.1:	None present, though served.
For Respondent No.2/State: -	Mrs. Astha Shukla, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Judgment On Board

22/11/2018

1. This is second appeal by the defendant under Section 100 of the CPC by which the first appellate court has dismissed the appeal affirming the judgment & decree passed by the trial court granting decree in favour of the plaintiff holding that he is the co-owner of the suit property along with his mother and brother.
2. Learned counsel for the appellant / defendant No.1 submits that concurrent finding recorded by the two courts below holding defendant No.1 to be encroacher on the suit property is unsustainable, as the plaintiff is held not the sole owner of the suit property and other two persons who were not party to the suit have also been held to be co-owners of the suit property and as such, the appeal involves

substantial question of law. He further submits that concurrent finding recorded by the two courts below is perverse and contrary to the record.

3. I have heard learned counsel for the appellant and perused the record.
4. The trial Court has clearly held that the plaintiff along with his mother and brother Prahlad are owners of the suit property and the appellant herein – defendant No.1 has encroached upon the suit property forcefully in order to grab the property and the plea of adverse possession has also not been found proved by the two courts below. Concurrent finding recorded by the two courts below holding the plaintiff to be encroacher and the plea of adverse possession has not been found proved. It is based on material available on record. It is neither perverse nor contrary to record. I do not find any substantial question of law for determination. The second appeal deserves to be and is accordingly dismissed. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge