

HIGH COURT OF CHHATTISGARH, BILASPURSecond Appeal No.286 of 2004

Agni Charan Samal, S/o Shri Hadi Bandu Samal, aged about 49 years, Occupation Cycle Shop, R/o Village Namnakala (Patpariya), Thana & Tahsil Ambikapur, District Sarguja (C.G.)

(Plaintiff)
---- Appellant

Versus

1. Tara Sharma, S/o Shri Chiranjilal Sharma, aged about 53 years, R/o Village Namnakala (Patpariya), Thana & Tahsil Ambikapur, District Sarguja (C.G.)

2. A. Krishna Kumar Gupta, S/o Late Jagdish Prasad, aged about 40 years,

B. Ramashankar Gupta, S/o Late Jagdish Prasad Gupta, aged about 38 years,

C. Smt. Bhagwanti Gupta, W/o Late Jagdish Prasad Gupta, aged about 58 years.

All above R/o Sangam Chowk, Deviganj Road, Ambikapur, District Sarguja (C.G.)

3. State of Chhattisgarh, through the Collector, Sarguja, Ambikapur, District Sarguja (C.G.)

(Defendants)
---- Respondents

For Appellant: Mr. Rakesh Pandey, Advocates.
For Respondent No.3 / State: -
Mrs. Astha Shukla, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Judgment On Board

04/10/2018

1. This is the plaintiff's second appeal under Section 100 of the CPC questioning the judgment & decree of the first appellate Court by which the judgment & decree of the trial Court has been affirmed holding that the plaintiff is not entitled for decree of possession and permanent injunction.
2. Learned counsel for the appellant / plaintiff submits that concurrent

findings recorded by the two courts below are perverse and contrary to record.

3. I have heard learned counsel for the appellant / plaintiff and perused the record with utmost circumspection.
4. The plaintiff filed suit for possession that the defendants have encroached upon his land bearing Khasra No.232/37 and after demolishing the construction, he be granted possession. Defendant No.1 filed written statement that he is tenant of defendant No.2 and land is owned by defendant No.2 and he has not encroached upon the land of the plaintiff. The trial Court held that the plaintiff has failed to prove his ownership over the suit land and the defendants have not encroached upon the suit land. In appeal, it has been affirmed. Concurrent findings recorded by both the courts below that defendant No.1 has not encroached upon the suit land is a finding of fact based on the evidence concurrently recorded by the two courts below which is binding on this Court. I do not find any substantial question of law in this second appeal. Consequently, the second appeal is dismissed *in limine* with no order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge