

HIGH COURT OF CHHATTISGARH, BILASPUR**SECOND APPEAL No. 267 of 2004**

1. Vishwanath Vishwakarma S/o Chiju Vishwakarma, aged about 65 years, Occupation – retired forestor, R/o Village Ramanujganj, Tahsil Pal, Ward No. 4, District Surguja (C.G.).....[Defendant No. 1] **---- Applicant**

Versus

1. Badrinath S/o Bhuneshwar Dubey, aged about 50 years, Occupation – Agriculture, R/o Village Ramanujganj, Ward No. 9, Ramanujganj, Tahsil Pal. District Surguja (C.G.).....[Plaintiff]
2. The State of Chhattisgarh, through Collector, Surguja, Ambikapur (C.G.)..... [Defendant No. 2] **---Respondents**

For Applicant : Ms. Sharmila Singhai, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****05/09/18**

1. This is appellant / defendant's second appeal under Section 100 of the CPC.
2. The plaintiff's suit for declaration of title, permanent injunction and recovery of possession was decreed by the trial Court and duly upheld by the First Appellate Court, against which this second appeal under Section 100 of the CPC has been preferred by defendant No. 1.
3. Learned counsel for the appellant / defendant No. 1 would submit that demarcation report submitted by plaintiff was not proved and established and finding in relation to encroachment by defendant No. 1 is perverse on the face of record and gives rise to substantial question of law for determination.
4. I have heard learned counsel for the appellant / defendant No. 1.
5. The plaintiff filed a suit for declaration of title and recovery of

possession stating *inter-alia* that appellant / defendant No. 1 has encroached upon his land, of which he is the owner and title holder. During the course of trial of suit filed demarcation report Ex. P/3 done by Superintendent of Land Record on the order of Revenue Officer, Demarcation Panchnama Ex. P/2 was filed. Mr. V. R. Shah (SLR) has been examined on behalf of plaintiff to prove demarcation report and Demarcation Panchnama and he has proved the demarcation report stating that defendant No. 1 has encroached upon the land owned by plaintiff by 15" x 45". The said demarcation report was accepted by the trial Court finding no illegality holding that defendant No. 1 has encroached upon the land owned by plaintiff and the said finding has clearly been upheld by the First Appellate Court on close appreciation.

6. The said findings decreed by two Courts below are pure and simple finding of fact. I do not find any perversity and illegality in the said finding. No substantial question of law is involved for determination in this second appeal.

7. Accordingly, the second appeal deserves to be and is hereby dismissed *in limine*. No cost(s).

SD/-

(Sanjay K. Agrawal)
Judge