

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****SA No.65 of 2004**

Jagdish Prasad S/o. Khudiram, Aged about 60 years, Occupation Agriculture, R/o. Village Uchdih, Tahsil Lundra, Distt.Surguja (CG)

----Appellant**Versus**

1. Basanti Bai D/o.Khudiram, Aged about 42 years, Occupation house work, R/o. Village Gangapur, Tahsil Lundra, District Surguja (CG)
2. State of Chhattisgarh (Proforma Party) Through the Collector, Surguja, Ambikapur (CG)

---- Respondents

For Appellant	:	Mr.D.N.Prajapati, Advocate
For Respondent No.1	:	Mr.A.N.Bhakta, Adocate
For Respondent No.2	:	Mr.Aditya Sharma, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****12/09/2018**

1. This is the defendant's second appeal.
2. Suit filed by plaintiff-Basanti Bai was dismissed by the trial Court but the trial Court has recorded a finding that the plaintiff has purchased the suit property vide Exs.P/1 and P/2, but she is not in possession of the suit property. That finding was reversed by the First Appellate Court holding that the plaintiff is in possession of the suit property and decreed the suit. Against that, this second appeal under Section 100 of the CPC has been filed by the appellant/defendant.
3. Mr.D.N.Prajapati, learned counsel for the appellant/defendant, would submit that the appeal involves substantial question of law as proposed in memo of appeal as well reasoned finding of the trial Court has been reversed by the First Appellate Court on unsustainable grounds.

4. I have heard learned counsel for the appellant, perused the impugned judgment and decree and records of the Courts below.
5. The plaintiff and defendant are sister and brother. Their father Khudiram executed registered sale deed dated 10.6.1985 and 7.6.1985 (Exs.P/1 and P/2) in favour of his daughter Basanti Bai during his lifetime. When interference was made in the suit property by the defendant, plaintiff-Basanti Bai filed a suit only for permanent injunction based on title, which was dismissed by the trial Court, but the trial Court has held that the plaintiff is title-holder of the suit property on the basis of Exs.P/1 and P/2, but she is not in possession of the suit property. The First Appellate Court relying upon due appreciation of evidence of plaintiff's and defendant's witnesses held that the plaintiff is in possession of the suit property and granted injunction in her favour.
6. The finding recorded by the First Appellate Court that the plaintiff is in possession of the suit property is the finding of fact based on evidence available on record, in which I do not find any illegality or perversity in the said finding. Even I do not find any substantial question of law in this second appeal.
7. Accordingly, the second appeal is dismissed in *limine*. No cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-