

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 362 of 2003**

Smt. Shanti Devi, aged 60 years, W/o. Lakhan Lal Shrivastava, R/o. Darogapara,
Pahawa Colony Raigarh, District Raigarh (C.G.)

----Appellant/Plaintiff

Versus

1. Sanjay Sharma, aged 28 years, S/o Musaddi Lal Sharma, R/o. Chhote
Aturmuda, Raigarh, Distt. Raigarh (C.G.)

2. The State of Chhattisgarh Through The Collector, Raigarh

----Respondents/defendants.

For Appellant	:	Mr. Ram Kumar Tiwari, Advocate.
For Respondents	:	None

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

13/09/2018

(1) This is plaintiff's Second Appeal filed under Section 100 of CPC against the judgment and decree dated 18.02.2003, passed by the 4th Additional District Judge (Fast Track Court), Raigarh, in Civil Appeal No. 13-A/2001 reversing the judgment and decree dated 31.01.1998 passed by First Civil Judge, Class-II, Raigarh, in Civil Suit No. 138-A/92.

(2) Plaintiff's suit for recovery of possession based on title was decreed by the Trial Court.

(3) Defendant/respondent No.1 preferred First Appeal there-against. The First appellate court, on re-appreciation of entire evidence and material placed on record, allowed the defendant's appeal and dismissed the suit, against which this second appeal has been filed by the plaintiff questioning the same.

(4) Learned counsel appearing for the appellant/plaintiff would submit that the first appellate Court is absolutely unjustified in reversing the well reasoned findings recorded by the trial Court and, as such, the impugned judgment and decree passed by the first appellate Court deserves to be set aside and the decree of the trial Court deserves to be restored, and thereby the suit deserves to be decreed.

(5) I have heard learned counsel appearing for the appellant and perused the records of both the courts below including judgment and decree impugned with utmost circumspection.

(6) The plaintiff filed a suit for recovery of possession stating inter alia that he was illegally dispossessed from the suit land by the defendants but the plaintiff did not examine herself before the trial Court to support the plea that she is title holder of the said suit land. The First Appellate Court, by its impugned judgment & decree, clearly recorded a finding that though it has been stated in the plaint that the plaintiff got the suit land in partition but no documentary evidence, evidencing the partition was filed except the revenue record (Ex.P-4), which does not confer any title of the plaintiff over the suit land, as such, the first appellate Court was absolutely justified in holding that plaintiff is not the title holder of the suit land on the basis of non-examination of plaintiff herself and non-production and prove of documents to establish her title over the suit land.

(7) In view of above, the first appellate court after re-appreciating the entire evidence available on record in its proper perspective has reversed the finding and dismissed the plaintiff's suit and I do not find it either perverse or contrary to record and no question of law much less substantial question of law is involved in this appeal.

(8) Accordingly, the second appeal, being devoid of merit, is liable to be and is hereby dismissed in *limine*.

Sd/-

(Sanjay K. Agrawal)
Judge

