

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 134 of 2010**

Upendra Singh, S/o Rampreet Singh, aged about 45 years, R/o. Village & Police Station Balrampur, Tahsil Pal, District Surguja (C.G.)

----Appellant/Plaintiff

Versus

1. Smt. Ajmerun Nisha, W/o. Mohd. Rasul, aged about 40 years, R/o. Ratejwar, Tahsil Pal, District Surguja (C.G.)
2. State of Chhattisgarh, through: Collector, Surguja, District Surguja (C.G.)

----Respondents/defendants.

For Appellant	:	Ms. Priyanka Mehta,, Advocate.
For Respondent No. 1	:	Mr. D.N. Prajapati, Advocate.
For Respondent No. 2	:	Mr. Aditya Sharma, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board**

17/09/2018

(1) This is plaintiff's Second Appeal filed under Section 100 of CPC against the judgment and decree dated 20.01.2010, passed by Additional District Judge (Fast Track Court), Ramanujganj, Surguja, District Surguja in Civil Appeal No. 3-A/2008 affirming the judgment and decree dated 31.10.2007 passed by Civil Judge, Class-I, Ramanujganj, District Surguja, in Civil Suit No. 19-A/2003 dismissing the suit.

(2) The plaintiff's suit for declaration of title over the suit land and permanent injunction was dismissed by the trial Court.

(3) The plaintiff preferred first appeal thereagainst. The first appellate court, after re-appreciating the oral and documentary evidence brought on record, affirmed the judgment and decree passed by the trial court, leading to filing of this Second Appeal under Section 100 of

the Code of Civil Procedure.

(4) Learned counsel appearing for the appellant/plaintiff would submit the findings recorded by both the courts for dismissing the suit of the plaintiff are perverse and contrary to the record and that give rise a substantial question of law for determination in this appeal.

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

(6) The plaintiff was allotted the suit land by the order of allotment officer / Tahsildar on 19.12.1990, which was revoked by order of the Collector dated 28.03.1995, and that was challenged before the Commissioner and Board of Revenue unsuccessfully by the plaintiff, and thereafter, instant civil suit was filed barely seeking declaration of title in his favour without seeking any declaration with regard to the order dated 28.03.1995 passed by the Collector, order dated 28.03.1995 passed by the Commissioner and the order dated 24.03.2001 passed by the Board of Revenue, which has been dismissed by the trial Court by the judgment & decree dated 31.10.2007 holding that the order passed by the Collector dated 28.03.1995 is effective and binding between the parties. More so, the plaintiff did not question the order of Commissioner and Board of Revenue as they have affirmed the order of Collector and the order passed by the Collector has merged into order of Commissioner firstly and then the Board of Revenue. The decree of trial court has been upheld by the first Appellate Court by its well reasoned judgment & decree impugned 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.

(7) Accordingly, the second appeal, being devoid of merit, is liable to be and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

