

HIGH COURT OF CHHATTISGARH, BILASPUR**SA No. 172 of 2005**

Gangaram, s/o Nandraji Dhruv, aged about 50 years, Caste- gond,
R/o Village Dongardula, Tehsil Nagri, Distt. Dhamtari, Chhattisgarh.

---- Appellant/Plaintiff

Versus

1. Kanakram, S/o Hagru Ram Teli, aged about 52 years, R/o Dongardula, Tehsil Nagri, Distt. Dhamtari, Chhattisgarh.
2. State of Chhattisgarh, through the Collector, Dhamtari, Chhattisgarh.

----Respondents/Defendants

For Appellant : Mr. Rajendra Kumar Patel, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

11.03.2019

1. Heard on the question of admission and formulation of substantial question of law in this second appeal preferred by the plaintiff under Section 100 of the Code of Civil Procedure, 1908.
2. Plaintiff's suit for declaration of title, possession and permanent injunction was dismissed by the trial Court and on appeal being preferred, it was upheld by the first appellate Court, against which this second appeal has been preferred.
3. Learned counsel for the plaintiff submits that the concurrent findings recorded by the two Courts below are perverse and give rise to substantial question of law for determination.
4. The plaintiff filed a suit for declaration of title, possession and permanent injunction in which the two Courts below have concurrently recorded a finding that the suit land was sold by plaintiff's father i.e. Nandraji to defendant's father i.e. Hagru on 11/04/1950 and delivered a peaceful possession thereof, therefore, defendant No. 1, being the son of Hagru, is in possession of the suit land pursuant to that sale and the provisions contained in Sections 170 (b) and 165 (6-c) of the Land Revenue Code, 1959 would not

apply, as the transaction took place in the year 1950 and in Chhattisgarh Land Revenue Code, 1959 came into force on 02/10/1959, which was duly upheld by the first appellate Court.

5. The concurrent findings recorded by the two Courts below holding that the defendant is title holder of the suit land and provisions contained in Sections 170 (b) and 165 (6-c) of the Land Revenue Code, 1959 would not be applicable as the Land Revenue Code, 1959 came into force on 02/10/1959 are findings of fact based on evidence on record 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.
6. Their Lordships of the Supreme Court have held that it is not permissible for the High Court to interfere with the concurrent finding of fact recorded by two Courts below unless findings are perverse and contrary to law. {See : **Aftaruddin (dead) represented through legal representatives Vs. Ram Krishna Dutta *alias* Babul Datta and others¹ & Raj Kumari and another Vs. Ravinder Kumar (deceased) through legal representatives & others²**}
7. Accordingly, the second appeal, being devoid of merit, is liable to be and is hereby dismissed *in limine* without noticing to the other side.

Sd/-

(Sanjay K. Agrawal)

Judge

Harneet

¹ (2018) 11 SCC 77

² (2018) 12 SCC 681