

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 513 of 2007**

1. Smt. Shobha Bai, aged 51 years; W/o. Late Kanhaiya Singh Rajput;
2. Kum Benulata, aged 26 years, D/o. Late Kanhaiya Singh Rajput;
3. Ku. Neelam Lata, aged 23 years, D/o. Late Kanhaiya Singh Rajput.

All are resident of Village Changurdal Tahsl, Khairagarh, District
Rajnandgaon " Chhattisgarh

----Appellants/Defendants

Versus

1. Shankar Singh, aged about 39 years; S/o. Late Rameshwar Singh Rajput; Occupation Service; worker Indira Gandhi Arts Music University, Khairagarh, Tahsil Khairagarh, resident of Old Tikrapara, Ward No. 9 Khairagarh, Ward No. 9 Khairagarh, Tahsil Khairagarh; District Rajnandgaon "Chhattisgarh:.
2. State of Chhattisgarh; through Collector, Rajnandgaon, District Office Rajnandgan (C.G.)

----Respondents/Plaintiffs

For Appellants : Mr. R.N. Jhal, Advocate.
For Respondent No. 2/ State : Mr. Mateen Siddiqui, Dy. Advocate General

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

02/09/2019

(1) Heard on the question of admission and formulation of substantial question of law on this second appeal preferred by defendant under Section 100 of the Code of Civil Procedure, 1908.

(2) Learned counsel appearing for the appellants/defendant would submit that both the courts below have concurrently erred in granting decree for possession in favour of the plaintiff by recording a finding which is perverse to the record and that give rise to substantial question of law for determination.

(3) I have heard learned counsel appearing for the appellant and considered his submissions and went through the record with utmost circumspection.

(4) The plaintiff filed a suit of possession based on title stating inter alia that he has purchased the suit property bearing Khasra No. 140/5, area 5.54 acres from Smt. Madhulika Jha by registered sale deed dated 5.5.1997 for a sale consideration of Rs. 45,000/- and came in possession over the suit land by constructing kachha house on the said land and given half of the portion of the said house to his brother Kanhaiya Singh for temporary residence purpose. The defendants have unauthorizedly entered into possession of the plaintiff, which was denied by the plaintiff.

(5) Ultimately, the trial Court concluded that plaintiff has purchased the suit land by registered sale deed dated 5.5.97 (Ex.P-1) from Smt. Madhulika Jha and came into possession by constructing Kachha house over it and the defendant unauthorizedly entered in possession of the suit land and granted decree in favour of the plaintiff. The defendants preferred first appeal thereagainst. The First appellate Court, after re appreciating the oral and documentary evidence on record, affirmed the finding so recorded by the trial Court.

(6) Both the courts below have concurrently recorded a finding that plaintiff is title holder of the suit land and entitled for possession is a finding of fact based on material available on record and I do not find it either perverse or contrary to the record and no question of law much less substantial question of law is involved in this appeal. Even otherwise, the defendants, by filing counter claim, did not establish their title over the suit land.

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

Sd/-
(Sanjay K. Agrawal)
Judge

D/-

