

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No.126 of 2006**

Panchu, aged about 47 years, S/o Milau, Caste-Satnami, R/o Village-Pataalkundi, Tehsil-Lormi, Distt. Bilaspur (Chhattisgarh)

---- Appellant**Versus**

1. Sevakram, aged about 20 years, S/o Mansingh, Caste-Satnami
2. Salikram, aged about 16 years, S/o Mansingh (Minor), Through his father Mansingh S/o Lalka, Caste-Satnami
3. Malikram, aged about 28 years, S/o Mansingh, Caste-Satnami

All R/o Village – Pataalkundi, Tehsil-Lormi, Distt. Bilaspur (Chhattisgarh)

---- Respondents

For Appellant/Defendant	:	Mr.Aman Tamboli, Advocate appears on behalf of Mr.R.S.Marhas, Advocate
For Respondents	:	None as appeal yet not admitted

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****20/2/2019**

1. Heard on the question of admission and formation of substantial question of law of second appeal preferred by the appellant/defendant under Section 100 of the Code of Civil Procedure, 1908.
2. Suit for bare permanent injunction filed by the plaintiff was decreed by the trial Court. On appeal being preferred by the appellant/defendant, the First Appellate Court upheld the judgment and decree of the trial Court and dismissed the appeal affirming the decree in favour of the plaintiffs.
3. Mr.Aman Tamboli, learned counsel for the appellant/defendant, would submit that both the Courts below are absolutely unjustified in

decreeing the suit for permanent injunction by recording a perverse finding, which is contrary to record.

4. The trial Court has clearly recorded a finding that the the plaintiff's father purchased the suit land from one Mangan by registered sale deed dated 19.3.77 (Ex.P/1) and became possession holder and after his death, the plaintiffs are title and possession holders of the suit land and the defendant has no right and title over the suit land. The finding recorded by two Courts below regarding the plaintiffs' title over the suit land is a finding of fact based on evidence available on record, which is neither perverse nor contrary to record. I do not find any perversity or illegality in the said finding. Even I do not find any substantial question of law for determination of this second appeal.
5. 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. {See : Aftaruddin (Dead) represented through legal representatives v. Ramkrishna Datta alias Babul Datta and others¹ and Rajkumari and another v. Ravinder Kumar (deceased) through legal representatives and others²}.
6. Accordingly, the second appeal being devoid of merit is liable to be and is hereby dismissed in *limine*, without notice to other side. No cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-

1 (2018) 11 SCC 77
2 (2018) 12 SCC 681