

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 44 of 2007**

1. Parbhu, son of Faguram, aged about 30 years, by caste – Sahu,
2. Gattu, son of Pachkod Sahu, aged about 51 years,

Both are resident of village – Dhothama, Tahsil Mungeli, District Bilaspur (C.G.)
 DEFENDANT No. 1 & 4 IN THE TRIAL COURT

----Appellants

Versus

1. Ramkhilawan (since deceased) : Through legal heirs :-
- 1A. Nohar, aged about 40 years, S/o Late Ramkhilawan;
- 1B. Manoj, aged about 38 years, S/o Late Ramkhilawan;
- 1C. Badi, aged about 36 years, S/o Late Ramkhilawan;
- 1D. Radha Bai, aged about 46 years, D/o Late Ramkhilawan;
- 1E. Sita Bai, aged about 42 years, D/o Late Ramkhilawan;
- 1F. Geeta Devi, aged about 49 years, D/o late Ramkhilawan.
- 1G. Niramala Devi, aged about 50 years, D/o late Ramkhilawan

All R/o Ramgopal Tiwari, ward Pathakpara, Mungeli, District Bilaspur (C.G.)

2. Raj Kumar, Son of Ramkhilawan, aged about 38 years,
 3. Vijay Kumar, Son of Ram Khilawan, aged about 35 years, by caste-Bramhan,
- All resident of Ram Gopal Tiwari Ward, Mungeli, Tahsil Mungeli, District Bilaspur (C.G.)

PLAINTIFFS IN THE TRIAL COURT

4. Gend Ram son of Ghasiram Sahu, aged about 70 years,
5. Faguram, son of Pachkod Sahu, aged about 62 years.
6. Bhikhari, son of Pachkod Sahu, aged aboutyears.
7. Bihari, son of Jhadiram Sahu, aged about years.
8. Shyama Bai, wife of Chandrika Sahu, aged about 35 years, Resident of village Jhalpa, P.S. Hirri, Tahsil Bilha, District Bilaspur (C.G.)

9. Munga Bai, aged about 32 years, widow of late Pune Sahu, resident of village Dongi, Tahsil Kota, District Bilaspur (C.G.)
10. Jhunga Bai, wife of Bishambar Sahu, aged about 29 years, Resident of village Koni, Tahsil and District Bilaspur (C.G.)
11. Kheduram, son of Taijau Sahu, aged about ..years, resident of village – Dhothama, Tahsil – Mungeli, District Bilaspur (C.G.)
12. The State of Chhattisgarh through – Collector, Bilaspur (C.G.)

Defendants No. 2,3,5 to 11 in the trial Court.

----Respondents/defendants.

For Appellants	:	Mr. M.K. Bhaduri, Advocate.
For LR's. of respondent No. 1 and Respondents No. 2 & 3	:	Mr. Ritesh Verma, Advocate.
For Respondent No. 12/State	:	Mr. Saleem Kazi, Deputy Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

02/07/2019

Heard on the question of admission and formulation of substantial question of law for determination.

(1) This is defendants' Second Appeal filed under Section 100 of CPC against the judgment and decree dated 08.01.2007, passed by Second Additional District Judge (Fast Track Court), Mungeli, in Civil Appeal No. 4-A/2005 reversing the judgment and decree dated 01.12.2004 passed by Civil Judge, Class-I, Mungeli, in Civil Suit No. 104-A/97, decreeing the suit.

(2) The plaintiffs filed a suit for possession of the suit land based on title. That was dismissed by the trial Court finding that the suit is barred by limitation but the first appellate Court, by its impugned judgment & decree, reversed it and granted decree for possession in favour of the plaintiffs holding that the suit was filed well within the period of limitation i.e. 12 years, against which this second appeal has been filed by the defendants questioning the same.

(3) Learned counsel appearing for the appellants/defendants 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 appeal involves substantial question of law for determination.

(4) I have heard learned counsel appearing for the appellant on question of admission of second appeal and perused the records of both the courts below including judgment and decree impugned with utmost circumspection.

(5) The plaintiffs filed a suit for possession based on title stating inter alia that pursuant to the decree granted by the jurisdictional Civil Court on 7.3.1981, the plaintiffs was placed in possession on 14.12.1982 but they were dispossessed from the suit land in the year 1988 and, as such, they filed a suit for possession based on title on 23.12.1997 and according to Article 65 of The Limitation Act, 1963, the limitation period prescribed for filing the suit for possession of immovable property based on title is 12 years.

(6) Admittedly, the suit was filed on 23.12.1997 and the plaintiffs were dispossessed from the suit land in the year 1988, i.e. well within the period of 12 years from the date of dispossession, as such, the finding recorded by the learned first appellate Court holding the suit to be within the period of limitation is strictly in accordance with 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 in *limine* at admission stage. No costs.

Sd/-

(Sanjay K. Agrawal)
Judge

