

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 524 of 2007**

Rakesh Kumar Shastri, S/o Shri Sushil Kumar Shastri, Aged about 36 years, R/o Village Nagoi, Tahsil & District Bilaspur, Chhattisgarh.

--- Appellant/Plaintiff

Versus

State of Chhattisgarh, Through Collector, Bilaspur, District Bilaspur, Chhattisgarh.

---- Respondent/Defendant

For Appellant/Plaintiff	:	Mr. Rajeev Shrivastava and Mr. Avinash Choubey, Advocates
For State/Defendant	:	Mr. Mateen Siddiqui, Deputy Advocate General

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

28/08/2019

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 CPC.
2. Mr. Rajeev Shrivastava and Mr. Avinash Choubey, learned counsel appearing for the appellant/plaintiff would submit that both the Courts below are absolutely unjustified in dismissing the civil suit filed by the plaintiff holding that the suit land is the land reserved for grazing purpose and plaintiff, being the encroacher upon the suit land, is not entitled for decree of declaration of title on the basis of adverse possession, as such, the concurrent finding recorded by both the Courts below, being perverse, gives rise to substantial question of law for determination in this second appeal.

3. Plaintiff herein filed a civil suit stating *inter alia* that he is in possession of the suit land for more than 30 years and as such, he has perfected his title over the suit land by way of adverse possession, in which the State filed its return holding that the suit land is reserved for the purpose of grazing, and the plaintiff has not been in possession of the suit land for 30 years, therefore, he is not entitled for decree of declaration of title by way of adverse possession.
4. Learned trial Court, after appreciating the oral and documentary evidence on record, dismissed the civil suit filed by the plaintiff holding that suit land is the land which is reserved for grazing purpose and plaintiff, being the encroacher upon the suit land, has not perfected his title over the suit land by way of adverse possession. Even otherwise, the necessary ingredients for establishing his adverse possession over the suit land for 30 years has also not been proved by the plaintiff, as such, he is not entitled for decree of declaration of title by way of adverse possession, as claimed by him. Learned trial Court also held that plaintiff ought to have filed an application under Section 57 (2) of the Chhattisgarh Land Revenue Code, 1959. The above-stated findings of the trial Court were found favour with by the first appellate Court in the appeal preferred by the plaintiff.
5. The concurrent findings recorded by both the Courts below that suit land is reserved for the purpose of grazing and plaintiff, being the encroacher upon the suit land, has failed to establish his adverse possession over the suit land by proving the necessary ingredients of

adverse possession and possession over the suit land for 30 years are findings of fact based on material available on record which is neither perverse nor contrary to record and does not give rise to any substantial question of law for determination in this second appeal.

6. The second appeal deserves to be and is dismissed *in limine* without notice to the other side. No order as to cost(s).

**Sd/-
(Sanjay K. Agrawal)
Judge**

Harneet