

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 181 of 2008**

1. Smt. Rambha Bai, W/o. Mahadeo, Aged about – 52 years,

2. Jarasangh Rao, S/o Tuka Ram, Aged about -45 years,

Both are Residence of Bajrang Nagar, Raipur, District – Raipur (C.G.)

----Appellants/Plaintiffs

Versus

Shri Ramesh Sharma, S/o Shivnath, R/o Bajarang Nagar, In front of Nagar Nigam, Sulabh Complex, Raipur (C.G.)

----Respondent/defendant

For Appellants : Mr. Y.C. Sharma, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

22/10/2019

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

(2) Learned counsel appearing for the appellants/plaintiffs would submit that both the courts below were unjustified in dismissing the suit of the plaintiffs by recording a finding, which is perverse to the record and, therefore, appeal deserves to be admitted for hearing by formulating substantial question of law for determination.

(3) The plaintiffs filed a suit for declaration of title and permanent injunction stating inter alia that the plaintiff is title holder of the suit land annexed with the plaint and the

defendant is not entitled to interfere with their peaceful possession over the suit annexed with the plaint. The trial Court, by its judgment & decree dated 30.04.2005, dismissed the suit holding that since the suit land is owned by the Municipal Corporation, Raipur, therefore, the plaintiffs have no right or title over the suit property.

(4) Plaintiffs preferred first appeal there-against. The first appellate court, on re-appreciation of evidence available on record dismissed the appeal affirming the judgment & decree of the trial Court, against which, instant second appeal under Section 100 of the CPC has been preferred.

(5) The suit property is, admittedly, held by Municipal Corporation, Raipur, in which one Balkrishna Dongre has constructed a hut and later on he sold it to defendant Ramesh Sharma. Thus, the finding recorded by both the courts below that the, suit property is not owned by the plaintiffs and the same is owned by Municipal Corporation, Raipur, in which one Balkrishna Dongre has constructed a hut and thereafter sold it to the defendant – Ramesh Sharma, are the findings of fact based on material available 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) Accordingly, the second appeal, being devoid of merit, is liable to be and is hereby dismissed in *limine* without notice to the other side.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

