

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 226 of 2007**

1. Abbu Bakar, son of Hasam, aged about 47 (at present 55) Years, caste- Musalman, occupation- agriculture and business, resident of village Basana, Tah. Basana, Distt. Mahasamund (C.G.)

2. Mohammad Firoj, son of Abbu Bakkar, aged about 22 (at present 28) years, caste Musalman, occupation – agricultre and business, resident of village Basana, Tah. Basana, Distt. Mahasamund (C.G.)

-----Appellants/Plaintiffs

Versus

1. State of Chhattisgarh, through the District Collector – Mahasamund, Distt. Mahasamund (C.G.)

2. Nayab Tahsildar, Basana, Distt. Mahasamund (C.G.)

-----Respondents

For Appellants	:	Mr. Bharat Rajput, Advocate.
For Respondents/State	:	Mr. Ravi Bhagat, Dy. Govt. Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

03/12/2019

(1) Heard on the question of admission and formulation of substantial question of law of this second appeal preferred by plaintiffs under Section 100 of the Code of Civil Procedure, 1908 questioning the impugned judgment & decree dated 3rd March, 2007 passed in Civil Appeal No. 24-A/2004 by First Additional District Judge, Mahasamund affirming the judgment & decree of Civil Judge, Class-I, Saraipali dated 12.03.2004 passed in Civil Suit No. 42-A/98, dismissing the

suit of the plaintiff for declaration of title and permanent injunction.

(2) Learned counsel appearing for the appellants/plaintiffs would submit both the courts below are absolutely unjustified in dismissing the suit of the plaintiffs for declaration of title and permanent injunction and, therefore, the appeal deserves to be admitted for hearing by formulating substantial question of law for determination.

(3) The plaintiff filed a suit for declaration of title and permanent injunction stating inter alia that the plaintiffs are title holder of the suit land bearing Khasra No. 70/3, 74/1, 75/1, 74/2 and 75/6, total area 3.657 hectares. So far as 2.003 hectares of the land is concerned, the plaintiffs were granted patta by the Additional Collector, Raipur and the respondent No. 2/ Naib Tahsildar has no jurisdiction to direct his eviction on the part of adjoining land of Khasra No. 70/3.

(4) The defendants, by filing written statement, set up a defence that the land bearing Khasra No. 70/3, area 1.214 hectare was granted on patta to the plaintiffs whereas other land is private land and even patta of land bearing Khasra No. 70/3 has already been cancelled, as such, the plaintiff has no title over the suit land.

(5) The trial Court, after appreciation of oral and documentary evidence on record, dismissed the suit holding

that plaintiff is not the title holder of land bearing Khasra No. 70/3, likewise he is not title holder of the land bearing Khasra No. 75/2 and also with respect to the other private land.

(6) The plaintiffs preferred first appeal there-against. The appellate Court, after appreciation of oral and documentary evidence available on record, affirmed the judgment and decree of the trial Court by dismissing the appeal, against which instant second appeal under Section 100 of the CPC has been preferred.

(7) Concurrent findings recorded by both the courts below plaintiff is not the title holder of the suit land and even in respect of the land bearing Khasra No. 70/3, patta granted to him has already been revoked by the competent revenue officer is a finding of fact based on material available on record. 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.

(8) Accordingly, the second appeal, being devoid of merit, is liable to be and is hereby dismissed in *limine* without notice to the other side. No costs.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

