

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 295 of 2006**

Lal Mohammad Aazmi, S/o- Yasin Khan, Aged about 53 years, R/o- Takiyapara Durg,
Tahsil and District Durg (C.G.)

----Appellant/Plaintiff

Versus

1. Commissioner, Nagar Palik Nigam, Durg (C.G.)
2. Mayor, Nagar Palik Nigam, Durg (C.G.)
3. State of Chhattisgarh, Through :- Collector, Durg (C.G.)

----Respondents/defendants.

For Appellant	: Mr. Tarun Dansena, Advocate.
For Respondent No. 3/State	: Mr. Vimlesh Bajpai, Govt. Advocate. .

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

01/02/2019

(1) This is plaintiff's second appeal under Section 100 of the Code of Civil Procedure. The plaintiff's suit for declaration of title and permanent injunction has been dismissed by the trial Court. The first appeal preferred thereagainst was also dismissed, against which second appeal under Section 100 of the CPC has been preferred.

(2) Learned counsel appearing for the appellant/plaintiff would submit the concurrent findings recorded by both the courts below are perverse and that give rise a substantial question of law for determination in this appeal.

(3) I have heard learned counsel appearing for the appellant and perused the record of both the courts below with utmost circumspection.

(4) Both the courts below have concurrently recorded a finding that the plaintiff is licensee over the suit land and the licence was given only for the period of six months and that

period has expired and, thereafter, the appellant has become encroacher and even notice under Section 401 of Madhya Pradesh/Chhattisgarh Municipal Corporation Act, 1956 (henceforth "Act, 1956") has not been served before institution of the suit, as such, the findings recorded by the both the courts below that plaintiff is encroacher and his suit is not maintainable for want of notice under Section 401 of the Act, 1956 are the finding 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.

(5) Accordingly, the second appeal, being devoid of merit, is liable to be and is hereby dismissed in *limine*.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

