

HIGH COURT OF CHHATTISGARH, BILASPUR
SA. No. 148 of 2005

1.(A) Smt. Asha Ram Poddar, W/o Late Shri Rajendra Poddar, aged about 68 years.

(B) Sanjeet Poddar, S/o Late Shri Rajendra Poddar, aged about 32 years.

(C) Santosh Poddar, S/o Late Shri Rajendra Poddar, aged about 27 years.

(D) Sandeep Poddar, S/o Late Shri Rajendra Poddar, aged about 25 years.

(E) Ku. Charulata Poddar, D/o Late Shri Rajendra Poddar, aged about 68 years.

All are residence of Village Dharamjaigarh Colony, Tahsil- Dharamjaigarh, District- Raigarh (C.G.)

---- Appellants

Versus

State of Chhattisgarh, Through, Collector, Raigarh, (C.G.).

---Respondents

For Appellants	:	Mr. Vivek Tripathi, Advocate.
For State	:	Mr. Vimlesh Bajpai, GA.

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

31.01.2019

1. Heard on admission.
2. This is plaintiff's second appeal under Section 100 of the C.P.C.
3. Learned counsel for the appellants/plaintiff would submit that concurrent findings recorded by both the Courts below are perverse and contrary to record and gives rise to substantial question of law.
4. The plaintiff's suit was dismissed by the trial Court and it was upheld by the First Appellate Court, against which the second appeal has been preferred.
5. I have heard learned counsel for the appellants/plaintiff at length and perused the record.
6. The plaintiff filed a suit for declaration of title on the basis of adverse possession stating that he has perfected his title over the suit land by way of adverse possession. The trial Court has held that the plaintiff has failed to prove his adverse possession over the Government land and further held that the suit is barred by Section 57(2) of the Chhattisgarh Land Revenue Code, the said findings are the finding of fact based on material available on record. Even otherwise suit for declaration of title based on adverse

possession is not maintainable, in view of the decision rendered by the Hon'ble Supreme Court in the matter of **Gurdwara Sahi v. Gram Panchayat Village Sirthala** reported in **(2014) 1 SCC 669** in which it was held as under :-

“8. There cannot be any quarrel to this extent that the judgments of the courts below are correct and without any blemish. Even if the plaintiff is found to be in adverse possession, it cannot seek a declaration to the effect that such adverse possession has matured into ownership. Only if proceedings are filed against the appellant and the appellant is arrayed as defendant that it can use this adverse possession as a shield/defence.”

7. In view of the concurrent findings recorded by both the Courts below and findings of fact are based on material available on record. I do not find any merit in the second appeal. Therefore, the appeal is liable to be and is hereby dismissed. No order as to cost(s).

Sd /-

(Sanjay K. Agrawal)

Judge