

HIGH COURT OF CHHATTISGARH, BILASPUR
Second Appeal No. 507 of 2016

Ranvir Singh Chane Dead Through LR's :

1. Daljeet Kaur Wd/o Late Ranvir Singh Chane, Aged About 64 Years.
2. Prabindar Singh, S/o Late Ranvir Singh Chane, Aged About 46 Years.
3. Kulvindar Singh, S/o Late Ranvir Singh Chane, Aged About 42 Years.
4. Harvindar Singh, S/o Late Ranvir Singh Chane, Aged About 40.
5. Rajvindar Rihal, W/o Harprit, Through- Daljit Kaur.

All are R/o House No. 26, Malviya Nagar, Durg, Tahsil & District- Durg Chhattisgarh.

---- Appellants/Defendants

Versus

Indira Deshlahra W/o Vinod Deshlahra, Aged About 47 Years R/o House No. 11, Malviya Nagar, Durg, Tahsil And District- Durg Chhattisgarh.

---- Respondents/Plaitiff

For Appellants	: Mr. H.B. Agrawal, Sr, Advocate with Ms. Prabha Singh, Advocate.
For Respondent	: None present.

Hon'ble Shri Justice Sanjay K. Agrawal
Judgment on Board

18/07/2019

1. Heard on admission and formulation of substantial question of law on second appeal preferred by the appellants/defendants.
2. Plaintiff – Indira Deshlahra filed a suit for declaration of title and permanent injunction stating *inter alia* that she and one Smt. Sudarshana Deshlahra purchased the suit land by registered sale deed dated 08.10.1999 from Durg Jila Grih Nirman Sahkari Samiti and came in possession, in which the defendants have encroached upon 280 sq.ft. of land for which they are entitled for declaration of title and possession. The defendants set up a plea that they have purchased the suit land from Vishal Prasad on

25.03.1973 by an agreement and came in possession of suit land.

3. The trial Court after appreciating oral and documentary evidence available on record decreed the suit holding that the suit land was owned by Durg Jila Grih Nirman Sahkari Samiti, said Samiti has sold the suit land in favour of the plaintiff- Indira Deshlahra and one Smt. Sudarshana Deshlahra on 08.10.1999, the defendants have encroached upon 280 sq.ft. of land purchased by plaintiff and Smt. Sudarshana Deshlahra, relying upon the demarcation report Ex.P-6.
4. The first appeal preferred by the defendants was dismissed by the learned First Appellate Court, against which, this second appeal has been preferred before this Court.
5. Learned Senior Counsel appearing on behalf of the appellants/defendants would submit that concurrent finding recorded by the two Courts below that the defendants have encroached upon 280 sq.ft. of suit land purchased by plaintiff and Smt. Sudarshana Deshlahra, is perverse and contrary to the record. The Courts below have failed to see that the suit land is not the part of Khasra No. 1356 owned by the plaintiff and there is dispute as to identity of suit land, as such it gives rise to substantial question of law for determination.
6. I have heard learned counsel for the appellants/defendants on admission and considered his submissions and went through the record with utmost circumspection.
7. The trial court after appreciating oral and documentary evidence on record particularly Ex.P-6 demarcation report clearly held that suit land is part of

Khasra No. 1356/1 purchased by the plaintiff and Smt. Sudarshana Deshlahra vide sale deed dated 08.10.1999 Ex.P-15, in which 280 sq.ft. land have been encroached by defendants by constructing *Tin* shed to which plaintiff is entitled for possession. The First Appellate Court has also considered the entire material afresh and reached to a conclusion that demarcation report Ex.P-6 is valid and it remained unchallenged and uncontroverted and suit land is part of Khasra No. 1356/1 purchased by plaintiff from said Samiti and dismissed the appeal preferred by defendants. The finding of fact recorded by the two courts below that defendants have encroached 280 sq.ft. of land owned by plaintiff is a finding of fact based on evidence available on record. It is neither perverse nor contrary to record. I do not find any illegality or perversity in the said findings recorded two courts below decreeing the suit and dismissing the appeal filed by defendants, no substantial question of law is involved for determination.

8. This second appeal deserves to be and is accordingly dismissed having no substantial question of law for determination leaving the parties to bear their own cost(s).

Sd /-

(Sanjay K. Agrawal)

Judge

Jamal