

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 336 of 2008**

Gangaram, Aged 52 years, S/o Premlal Dheemar, R/o
Rajiv Nagar, Sidhi Colony, Bilaspur,
Chhattisgarh.

--Appellant/Plaintiff

Versus

1. State of Chhattisgarh, through the Collector,
Bilaspur, Chhattisgarh.
2. The Tahsildar, Tahsil Kota, District Bilaspur,
Chhattisgarh.

--- Respondents/Defendants

For Appellant :- Mr. Malay Shrivastava, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

20/02/2020

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellant/plaintiff under Section 100 of the CPC against the impugned judgment and decree passed by the first appellate Court affirming the judgment and decree by which the trial Court dismissed the suit finding no merit.

2. Plaintiff filed a suit for perpetual injunction stating inter alia that he is title

and possession holder of the suit land bearing Khasra No. 1423/2 and 1423/3 total area 1.66 acres for which he has filed an application for demarcation before defendant No. 2 but no such demarcation has been conducted and therefore, by granting decree for perpetual injunction, defendants be directed to make demarcation of the land owned and possessed by him.

3. Defendants filed their reply that the jurisdiction of the civil Court with regard to demarcation is barred by Section 257(g) of the Chhattisgarh Land Revenue Code, 1959 as revenue authorities have exclusive jurisdiction over any question regarding demarcation of boundaries or fixing of boundaries marks under Chapter X.

4. Learned trial Court, upon appreciation of oral and documentary evidence available on record, found favour with the said plea raised by the defendants and accordingly dismissed the suit which was further affirmed by the first appellate Court in the appeal preferred by the plaintiff.

5. Mr. Malay Shrivastava, learned counsel for the appellant/plaintiff would submit that both the Courts below have committed legal error in ignoring the fact that though the application was made, but demarcation was not made, therefore, perpetual injunction ought to have been granted in favour of the plaintiff, as such, the second appeal be admitted for hearing by formulating substantial question of law in this regard.

6. Section 129 of the Land Revenue code states as under :-

"129. Demarcation of boundaries of survey number or sub-division or plot number –

(1) The Tahsildar or any other Revenue Officer empowered to act may, on the application of a party interested, demarcate the boundaries of a survey number or of a sub-division or of a plot number and construct boundary marks thereon.

(2) The State Government may make rules for regulating the procedure to be followed by the Tahsildar or any other Revenue Officer empowered to act in demarcating the boundaries of survey number or of a sub-division or of a plot number prescribing the nature of the boundary marks to be used, and

authorising the levy of fees from the holders of land in a demarcated survey number or sub-division or plot number."

7. At this stage, it would be pertinent to notice Section 257(g) of the Land Revenue Code which provides as under :-

"257. Exclusive jurisdiction of revenue authorities — Except as otherwise provided in this Code, or in any other enactment for the time being in force, no Civil Court shall entertain any suit instituted or application made to obtain a decision or order on any matter which the State Government, the Board, or any Revenue Officer is by this Code, empowered to determine, decide or dispose of, and in particular and without prejudice to the generality of this provision, no Civil Court shall exercise jurisdiction over any of the following matters :-

- | | | | |
|-----|-----|-----|-----|
| (a) | XXX | XXX | XXX |
| (b) | XXX | XXX | XXX |
| (c) | XXX | XXX | XXX |
| (d) | XXX | XXX | xXX |
| (e) | XXX | XXX | XXX |
| (f) | XXX | XXX | XXX |

(g) any question regarding the demarcation of boundaries or fixing of boundary marks under Chapter X;"

8. A careful perusal of the aforesaid provision would clearly show that any question regarding the demarcation of boundaries or fixing of boundary marks under Chapter X of the Land Revenue Code is exclusively within the competence of the revenue officers and Section 257(g) of the Land Revenue Code expressly bars the jurisdiction of the civil Courts to entertain any suit or any application obtaining such a decision.
9. On plain reading of Section 9 of the CPC, it is found that the civil Courts shall have jurisdiction to try all the cases of civil nature excepting the suits of which cognizance is either expressly or impliedly barred in any law existing in this State. Section 257(g) of the Code expressly bars the jurisdiction of the civil Courts with regard to the aforesaid dispute.
10. In that view of the matter, both the Courts below have rightly held that plaintiff's suit, as framed and filed, is expressly barred by the provision contained under Section 257(g) of the Land Revenue Code, as such, no

substantial question of law is involved for determination herein.

11. The second appeal deserves to be and is accordingly dismissed *in limine* without notice to the other side. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet