

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**SA No. 199 of 2007**

- Ganesh S/o. Shri Bahal, Caste Rajwar, Resident Of Village - Kuruwan, Tahsil Surajpur, District - Surguja C.G.

---- Appellant**Versus**

1. Sundri (dead)
2. Jeetni S/o. Late Shri Bhaula, Caste Uraon, aged about 41 years
3. Ram Prasad S/o. Not known, Caste Uraon, aged about 46 years

All are residents of Village – Kuruwan, Tah.- Surajpur, District -Surguja C.G

4. State of Chhattisgarh, Through – the Collector, Surguja, Ambikapur (CG)

---- Respondents

For Appellant	:	Shri Ashok Kumar Shukla, Advocate
For Respondent / State	:	Shri Vikas Shrivastava, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****29/01/2020**

Heard on admission.

Learned counsel for the appellant argues that the concurrent findings of the Courts below that the plaintiff is not found to be in possession of the property, suffers from perversity. The two documentary evidence in the form of revenue records have also been ignored and the Courts below have misread the evidence of plaintiff's witness to record a finding that according to plaintiff's witness, the plaintiff did not remain in possession of the property since long and even at the time of presentation of the suit.

2. Learned Trial Court as well as the Appellate Court both, relying upon the evidence of Ganesh, Baldeo and Babanram, have recorded finding that according to plaintiff's witness, possession of the plaintiff is not proved as it has come in the evidence that at the time of presentation of suit, Bhaula was in possession and thereafter, his son-in-law and daughter have remained in possession. The submission of learned counsel for the appellant that such evidence relates to some other land and not the disputed property, in the absence of any clinching evidence, is merely in the realm of re-appreciation of evidence. For that reason, the finding of the Appellate Court cannot be said to be perverse.

The learned lower Appellate Court has also recorded finding in para 12 of the judgment that entries in the revenue records carry presumptive value. The evidence of the plaintiff itself has been made basis to record finding that the appellant / plaintiff was not in possession of the property and therefore, not entitled to decree of permanent injunction.

3. The concurrent finding of fact regarding factum of possession does not appear to be perverse warranting interference by this Court. No substantial question of law arise for consideration in this appeal. The appeal is, accordingly, dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge