

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No.168 of 2010**

1. Shivsharan (Charan) Pandey, aged about 73 years (63), son of late Shri Banshidhar Pandey, Occupation Agriculturist and Photography, R/o. Madhubanpara, Raigarh, Tahsil and Distt. Raipur (CG)
2. Shivkumar Pandey, aged about 72 years (62) Retired Government Employee, R/o. Baikunthpur, Raigarh, tahsil & Distt. Raigarh (CG)
3. Jeevan Singh, Aged about 71 years (61), S/o. Rambharosh Singh Thakur, Retired Government Employee, R/o. Mastagali Darogapara, Raigarh, Tahsil & Distt. Raigarh (CG)
4. Aashish Upadhyay, aged about 70 years (60), S/o. Banshidhar, Retired Government Employee, R/o. Baikunthpur, Raigarh Tahsil and distt. Raigarh (CG)
5. Haidar Ali, aged about 45 years, (35) Occupation Mashine Work, R/o. Madhubanpara, Raigarh, Tahsil & Distt. Raigarh (CG)
6. Satyanarayan Verma, aged about 62 years (52) Occupation Shopkeeper, R/o. Handi chowk, Raigarh Tahsil & Distt. Raigarh (CG)
7. Mangalram yadav, aged about 55 years (45) S/o. Bodhram Yadav, Occupation, Electrical Mechanic, R/o. Madhubanpara, Raigarh Tahsil & Distt. Raigarh (CG)

---- Appellants/Plaintiffs**Versus**

1. State Of Chhattisgarh, Dau Kalyan Singh Bhawan, Raipur (CG) through the Collector, Raigarh (CG)
2. Director General Jabalpur, Through District Commandant Home Guard, Badal Mahal, Raigarh and Rajapara Raigarh, Tahsil & Distt. Raigarh (CG)

---- Respondents/Defendants

For Appellants	:Shri Shashi Bhushan, Advocate
For Respondent	: Not noticed.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

27.8.2020.

1. Proceedings of this matter have been taken up for admission through Video Conferencing.
2. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellants/plaintiffs against the impugned judgment and decree passed by the first appellate Court affirming the judgment and decree of the trial Court by which the trial Court has dismissed the suit of the plaintiffs.
3. Learned counsel for the appellants/plaintiffs submits that both the courts below have concurrently erred in dismissing the suit of the plaintiffs by recording a finding which is perverse to the record and the appeal deserves to be admitted by formulating substantial question of law.
4. I have heard learned counsel for the appellants and perused the record of the Courts below.
5. The plaintiffs filed a representative suit for the suit land stating that the suit land was reserved for play ground and defendant No.1, Collector could not have allotted said suit land to defendant No.2 for training centre and other activities related to Home Guards, therefore, declaration and permanent injunction be granted against the

respondents/defendants.

6. The trial Court dismissed the suit of the plaintiffs holding that the land has been reserved for Home Guards by Order dated 12.11.1980 and possession has been delivered to respondent No.2 on 06.01.81, since then they are in the possession and making construction of training centre, which has been confirmed by the first appellate Court.

7. The two Courts below concurrently held that the suit land was allotted vide order dated 12.11.1980 (Ex-D/1) to defendant No.2 and the suit has been filed on 04.11.1999 after a huge delay after allotment of the suit land to defendant No.2 and the suit land was not reserved for play ground and defendant No.2 was in possession of the suit land and making construction of training centre, etc. The findings recorded by both the Courts below that it is reserved for Home Guards, 19 years prior to filing of suit and reserved for public purpose of defendant No.2 are the findings of fact based on evidence available on record which is neither perverse nor contrary to the record and the appeal does not involve any substantial question of law for determination.

8. 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