

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No.447 of 2009**

Anjuman Islamiya Committee, Nagri (Waqf institution)
 Through: President Anjuman Islamia Committee Nagri Shri Md.
 Hasam Menon, S/o Md. Jeekar, aged about 40 years,
 Occupation-Shoe Shop, R/o Chuliyara Para Masjid Road,
 Tahsil-Nagri, District Dhamtari (CG)

---Appellant/Plaintiff**Versus**

President Nagar Panchayat, Nagri, Tahsil & District
 Dhamtari (CG)

---Respondent/Defendant

 For Appellant/Plaintiff :

Mrs.Hamida Siddiqui, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****06/08/2020**

1. Proceedings of this matter have been taken-up through video conferencing.
2. Heard this second appeal on admission and formulation of substantial question of law preferred by the appellant/plaintiff.
3. By the impugned judgment and decree, the first appellate Court has dismissed the first appeal preferred by the appellant/plaintiff affirming the judgment and decree of the trial Court dismissing the suit for declaration of title, permanent injunction and mandatory injunction.

4. Mrs.Hamida Siddiqui, learned counsel for the appellant/plaintiff, would submit that both the Courts below were absolutely unjustified in dismissing the suit for declaration of title, permanent injunction and mandatory injunction and as such, the appeal involves substantial question of law for determination.
5. The plaintiff filed a suit that the suit land bearing Khasra No.414/2^{II} area 0.07 decimal (new Khasra No.168 area 0.07 decimal) was reserved for the plaintiff committee by order of the Additional Collector, Raipur, in which the defendant has no right and title to make construction and therefore, decree be granted in its favour for declaration of title, permanent injunction and mandatory injunction, in which the defendant filed its written statement and denied the averments made in the plaint stating inter-alia that no such allotment has been made in favour of the plaintiff and the plaintiff is not entitled for decree.
6. The trial Court dismissed the suit holding that the suit land has never been allotted in favour of the plaintiff and therefore, the plaintiff has no right/title over the suit land, which has been affirmed by the first appellate Court.
7. Both the Courts below have clearly held that the

suit land was never allotted by the competent authority i.e. State Government in favour of the plaintiff committee. Reservation of land in their favour, if any, would not confer any title much less right for declaration of title under Section 34 of the Specific Relief Act, 1963 as the plaintiff has no semblance right over the suit land. Concurrent finding recorded by two Courts below is finding of fact based on evidence available on record. It is neither perverse nor contrary to record. I do not find any merit in this second appeal and even I do not find any substantial question for determination of this second appeal.

8. Accordingly, the second appeal being devoid of merit is liable to be and is hereby dismissed in *limine* without notice to other side.

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-