

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 238 of 2020**

Shyamlal S/o Late Pardeshi Sinha, Aged about 52 years, R/o Village Tolagaon, Tahsil Khairagarh, District Rajnandgaon, Chhattisgarh.

---Appellant/Plaintiff

Versus

1. Sarpanch, Gram Panchayat, Tolagaon, Tahsil Khairagarh, District Rajnandgaon, Chhattisgarh.
2. Naib Tehsildar, Tahsil Khairagarh, District Rajnandgaon, Chhattisgarh.
3. State of Chhattisgarh, through the Collector, Rajnandgaon, District Rajnandgaon, Chhattisgarh.

--- Respondents/Defendants

For Appellant	:- Mr. Shobhit Koshta, Advocate
For State	:- Mr. Rahul Jha, G.A.

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

17/07/2020

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.

2. Mr. Shobhit Koshta, learned counsel for the appellant/plaintiff, would submit that both the Courts below are absolutely unjustified in holding that plaintiff is not entitled for declaration of invalidity of the order passed by the Collector affirmed by the Commissioner and he is also not entitled for permanent injunction, as such, the appeal deserves to be admitted by formulating substantial question of law in this regard.

3. The dispute relates to the patta alleged to have been granted to the plaintiff of land bearing Khasra No. 426/1 area 0.02 decimal situated at village Tolagaon, Tahsil Khairagarh, District Rajnandgaon. Plaintiff claimed that he has been in possession of the said land pursuant to the patta granted to him by the Naib Tahsildar vide order dated 30/02/1991 whereas in the complaint filed, it was examined by the Collector on the report of Naib Tahsildar and vide order dated 27/04/2015, it was held by the Collector that no such patta was ever issued to the plaintiff and the appeal was dismissed by the Commissioner. The

said order passed by the Collector has been affirmed by the Commissioner vide order dated 25/02/2016.

4. In the suit filed by the plaintiff, though the invalidity of order passed by the Collector and the Commissioner was sought, but the Commissioner was not impleaded as a party/defendant and even the order of the Commissioner was not brought on record.

5. Learned trial Court has held that since no patta was issued to the plaintiff in a duly constituted revenue proceedings, therefore, patta granted in favour of the plaintiff is invalid and plaintiff is not entitled for the relief claimed by him, which has been affirmed by the first appellate Court in the appeal preferred by the appellant/plaintiff under Section 96 of CPC.

6. The concurrent finding recorded by both the Courts below that no patta was issued in favour of the plaintiff and Ex. P/1 is an invalid/forged document is a finding of fact based on evidence available on record. Even otherwise, the Commissioner has not been impleaded as a party/defendant in the suit though the quasi

judicial order passed by him was questioned before the trial Court. As such, I do not find any perversity or illegality in the impugned judgment and decree passed by the trial Court as well as the first appellate Court.

7. 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