

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 378 of 2008**

1. Shraavan Kumar S/o Late Bahorik Lal, Aged about 49 years, R/o Kaluwatal, Tahsil Masturi, District Bilaspur, Chhattisgarh.

---Appellant/Plaintiff

Versus

1. Shyamlal S/o Medhura Kewat R/o Kauwatal, Tahsil Masturi, District Bilaspur, Chhattisgarh.

2. State of Chhattisgarh, through the Collector, Bilaspur, District Bilaspur, Chhattisgarh.

--- Respondents/Defendants

For Appellant	:-	Mr. Goutam Khetrapal, Advocate
For Respondent	:-	Mr. Ravindra Agrawal, Advocate
For State	:-	Ms. Shivali Dubey, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

29/01/2020

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 of the plaintiff finding no merit.

2. Mr. Goutam Khetrapal, learned counsel for the appellant/plaintiff would submit that both the Courts below have concurrently erred in dismissing the suit of the plaintiff holding that suit land is a Government land which was granted on lease to the defendant for the purpose of horticulture i.e. for planting fruit bearing trees by recording a finding which is perverse and contrary to record, therefore, the second appeal deserves to be admitted by formulating substantial question of law in this regard.

3. Plaintiff filed a suit for declaration of title and permanent injunction stating that defendant has encroached unauthorizedly upon Government land bearing Khasra No. 187/1 and 187/2 which is earmarked for public road and due to that, he is facing great difficulty in carrying out agricultural operations, therefore, decree be passed in his favour wherein defendant set up a plea that suit land is a Government land which has been granted to him on lease for the purpose of horticulture i.e. for planting fruit bearing trees, therefore, plaintiff has no right title and his suit deserves to be dismissed.

4. Learned trial Court, upon appreciation of oral and documentary on record, dismissed the suit

holding that suit land is a Government land upon which plaintiff has no right and title which was also affirmed by the first appellate Court in the appeal preferred by the plaintiff.

5. Both the Courts below have clearly recorded a finding that suit land bearing Khasra No. 187/1 and 187/2 is Government land which has been granted to the defendant on lease for the purpose of horticulture and plaintiff has no right and title upon the suit land and the subject matter of the dispute is cognizable by the Revenue Court, as such, the said finding that suit land is a Government land granted to the defendant for the purpose of horticulture is a finding of fact based on evidence available on record which is neither perverse nor contrary to record and does not involve any substantial question of law.

6. 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