

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 307 of 2010**

Bajrang S/o Late anand Pobia, Aged about 35 years, r/o Village Gadumaria, Tahsil and District Raigarh, Chhattisgarh.

---Appellant/Defendant No. 2

Versus

1. Smt. Shobha Pobia W/o Phool Singh Pobia, Caste Pobia, Occupation Labour, Aged about 47 years.

--- Plaintiff

2. Amritlal S/o Late Anand Pobia, Aged about 60 years.

3. Smt. Dhiro W/o Late Anand Pobia, Aged about 85 years.

4. Smt. Kaushiya W/o Amritlal Pobia, AGEd about 50 years.

5. Smt. Ahilya W/o Bajrang Pobia, Aged about 38 years.

All are r/o Village Gadumaria, Tahsil and Distt. Raigarh, Chhattisgarh.

6. State of Chhattisgarh, Through Collector, Raigarh.

--- Defendants

--- Respondents

For Appellant	:- Mr. Amit Sharma, Advocate
For State	:- Mr. Ravi Bhagat, Dy. G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

21/01/2021

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellant/defendant No. 2 against the impugned judgment and decree passed by the first appellate Court affirming the judgment and decree passed by the trial Court decreeing the suit of the plaintiff.
2. Mr. Amit Sharma, learned counsel appearing for the appellant/defendant No. 2, would submit that both the Courts below have erred in decreeing the suit of the plaintiff by recording a perverse finding holding that she is entitled for the relief of declaration of title and permanent injunction, as such, the appeal deserves to be admitted for hearing by formulating substantial question of law in this regard.
3. Plaintiff filed a suit for declaration of title and permanent injunction stating *inter alia* that she was granted the patta in bhoomiswami right over the suit land bearing Khasra No. 495/1/क plot No. 42 admeasuring 1080 sq. ft. shown in

Schedule 'A' annexed with the plaint on which she has constructed a house. On 05/05/2005, the defendants entered into one room of her house unauthorizedly and after dispossessing her started making construction which led to the filing of the civil suit by her.

4. Learned trial Court, after appreciation of oral and documentary evidence on record, decreed the suit of the plaintiff holding that the suit land was allotted to her in which she has constructed two rooms and is residing therein and on 05/05/2005, defendant No. 2 along with the other defendants entered into one of the rooms unauthorizedly and also started making construction in the courtyard. It was further held that the suit land being legally allotted to the plaintiff, defendants have no right or title over the suit property which was affirmed by the first appellate Court in the appeal preferred by the appellant/defendant No. 2.

5. Both the Courts below have clearly recorded a finding that the patta over the suit land was legally granted to the plaintiff, as such, she is the title-holder of the suit property and is entitled for decree for declaration of title and

permanent injunction and defendants have no right or title over the suit property. The aforesaid finding recorded by both the Courts below is a finding of fact based on evidence available on record which is neither perverse nor contrary to the record. I do not find any perversity or illegality in the said finding and it does not involve any substantial question of law for determination.

6. The second appeal, being devoid of merits, deserves to be and is accordingly dismissed *in limine* without notice to the other side. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet