

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No.463 of 2007**

Santhru (died) through LR's

(A) Jhariharo Wd/o Lare Santhru, aged about 70 years,

(B) Rambharosh, S/o Late Santhru, aged about 49 years,

(C) Shankar Ram Yadav S/o Late Santhru, aged about 43 years,

(D) Shabhu Ram S/o Late Santhru, aged about 43 years,

(E) Ram Pyare, S/o Late Santhru, aged about 39 years,

All are R/o Village Nawaband, P.S. Darima and Tahsil Ambikapur, District – Surguja (CG)

----- LR's of Appellant/Plaintiff

Versus

1. Dhanrajiya (died and deleted)

2. State of Chhattisgarh, Through: The Collector, Surguja (Ambikapur) (CG)

----- Respondents

For LR's of Appellant/Plaintiff:

Mr. Ashok Kumar Shukla, Advocate

Respondent No.1 died and her name has been deleted

For Respondent No.2/State:

Mr. Ravi Bhagat, Dy.G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Judgment On Board

28/06/2021

1. This second appeal preferred by the original plaintiff was admitted for hearing on 12.12.2019 by formulating the following substantial question of law for determination:-

"Whether both the Courts below were justified in holding that the suit is barred by provisions contained under Section 257 (1-1) of the Chhattisgarh Land Revenue Code, 1959 by recording a finding which is perverse and contrary to record ?"

[For the sake of convenience, the parties would be referred hereinafter as per their status shown and nomenclature in the suit before the trial Court].

2. The plaintiff filed a suit for declaration of title and permanent injunction stating inter-alia that he is title-holder of the land bearing Khasra No.153 area 0.030 hectare and order of the Sub-Divisional Officer, Surguja dated 25.5.2001 and order of the Collector, Surguja dated 22.2.2002 are illegal and void. It has been further pleaded that he is owner and title-holder of the land bearing Khasra Nos.152, 153 and 155 area and in Khasra No.153 which is 0.030 hectare he is in possession for last 25 years. In a proceeding initiated by defendant No.1-Dhanrajiya under Section 170-B of the Chhattisgarh Land Revenue Code, 1959 (hereinafter called as "the Code") the Sub-Divisional Officer, Surguja by order dated 25.5.2001 directed for reversion of the defendant's land holding that the plaintiff has constructed the house on the land bearing Khasra No.154/1 area 0.029 hectare, which has been affirmed by the Collector,

Surguja, which has been done without hearing the plaintiff and without noticing him, which was opposed by defendant No.1 by filing written statement.

3. The trial Court upon appreciation of oral and documentary evidence available on record, by its judgment and decree dated 30.4.2005, dismissed the suit holding that the plaintiff has failed to prove his title over the suit land, but also declared the suit to be barred by the provisions contained in Section 257 (1-1) of the Code. On appeal being preferred by the plaintiff, the first appellate Court affirmed the judgment and decree of the trial Court, against which, the plaintiff preferred this second appeal under Section 100 of the CPC, in which one substantial question of law has been formulated by this Court, which has been set-out in opening paragraph of this judgment for sake of completeness.
4. Mr. Ashok Kumar Shukla, learned counsel for legal representatives of the appellant / plaintiff, would submit that both the Courts below have committed legal error in dismissing the suit to be barred by the provisions contained in Section 257(1-1) of the Code. He would rely upon the judgment passed by this Court in the matter of Rameshwar Ram and Ors. v.

Dwarikaram and Ors.¹.

5. None for respondent No.1/Defendant No.1 as Dhanrajiya has died and her name has been deleted as she has no legal representatives.

6. The issue with regard to the order passed under Section 170-B of the Code the Code, the jurisdiction of the Civil Court is barred under Section 257(1-1) of the Code came-up for consideration before this Court in **Rameshwar Ram** (supra), in which this Court held as under:-

"18. In view of the aforesaid analysis, firstly it is held that the provision contained in Section 257 (L-1) barring the matter covered under Section 170-B of the Code came into force w.e.f. 15.12.1995, whereas the suit was filed on 18.8.1994 challenging the order passed by the Sub-Divisional Officer (Revenue), Jashpurnagar dated 15.6.1994. The express bar was not applicable on the date of institution of suit. Secondly, the Civil Court has jurisdiction to entertain and consider the matter covered by the provisions contained in Section 257 (L-1) of the Code to the extent whether the revenue authority has complied with the procedure prescribed or not while holding an enquiry and passing the order, but the Civil Court has limited jurisdiction as laid down by the Supreme Court in the matter of Dhulabhai (supra)."

7. From the aforesaid proposition, it is quite apparent that jurisdiction of the Civil Court is not completely barred and to certain level as indicated above the Civil Court can look into whether while passing the impugned order the principle of natural

justice has been followed or not and whether enquiry has been conducted in accordance with law or not.

8. In that view of the matter, the judgment and decree of both the Courts below to the extent of holding the jurisdiction to be barred is hereby set-aside. Since both the Courts below have held that the Civil Court has no jurisdiction and the suit is barred by the provisions contained in Section 257 (1-1) of the Code, it could not have recorded a finding on merits. Civil suit is now remanded to the trial Court for adjudication afresh in accordance with law. Civil Suit will be tried and completed within three months from the date of receipt of a copy of this order as the matter is of old one.
9. The second appeal is allowed to the extent indicated hereinabove. No cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-