

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 326 of 2011**

- Ishwarchandra Pandey, S/o. Late Brijkishore Pandey, aged about 33 years, R/o. Baikunthpur, Tahsil Baikunthpur, Distt. Korea (CG)

---- Appellant /Plaintiff**Versus**

1. South Eastern Coalfields Limited, through General Manager, Chirmiri Area, South Eastern Coalfields Limited, GM Complex, Podi, Tahsil Baikunthpur, Distt. Korea (CG)
2. Deputy Chief Personnel Manager, Area Headquarter, Chirmiri Area, Korea Colliery, SECL, Baikunthpur Distt. Korea (CG)
3. State of Chhattisgarh through Collector, Korea Baikunthpur Distt. Korea (CG)

---Respondents/Defendants

For Appellant	: Shri Manoj Paranjpe and Shri Vivek Mishra, Advocates
For Respondents	: Not noticed

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****16.02.2021.**

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellant herein/plaintiff against the impugned judgment and decree dated 03.10.2011 passed by First Additional District Judge, Manendragarh, Area Baikunthpur Distt. Korea in Civil Appeal No.62A/2010 affirming the judgment and decree dated 29.7.2009 passed by Second Civil Judge Class-I, Baikunthpur Distt. Korea in Civil Suit No.8A/2007 by which the trial Court dismissed the suit of the plaintiff for declaration and permanent injunction.
2. Learned counsel for the appellant herein/plaintiff submits that both

the courts below have concurrently erred in dismissing the suit of the plaintiff, by recording a finding which is perverse to the record, therefore, the appeal involves substantial question of law for determination and the appeal may be admitted for hearing by formulating substantial question of law.

3. I have heard learned counsel for the appellant and went through the record with utmost circumspection.

4. The appellant/plaintiff filed a suit for declaration and permanent injunction inter alia stating that he is the owner of the suit land bearing Khasra No.39/1 area 0.202 hectare and the SECL had caused damage to his suit property, therefore, the SECL be directed to acquire the land of the appellant and to provide employment along with compensation. The defendants opposed the above averments by filing written statement stating that said land is not required by the SECL and compensation in lieu of damages caused to the suit property has already been paid to the erstwhile owner of the suit land.

5. The trial Court after appreciating oral and documentary evidence, dismissed the suit of the plaintiff only holding that the plaintiff is the title holder of the above suit property. No other relief was granted in favour of the plaintiff. The said finding of the trial Court has been affirmed by the first appellate Court. Finding recorded by both the Courts below holding that the plaintiff is the owner and title holder of the suit land and the said land was not required by the SECL and no mining right was granted to the defendants over suit property of the plaintiff, is finding based on material available on record, which is neither perverse nor contrary to the record and the appeal 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

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