

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No. 143 of 2012

- Smt. Geeta Devi W/o Shri Gyanchand Satnami,
R/o Ward No. 33, Bapunagar, Khursipar,
Bhilai, Tah. & Dist. Durg C.G.

---- Appellant

Versus

- The Commissioner Municipal Corporation,
Bhilai, Officer-Supela, Bhilai, Tahsil &
District – Durg, C.G.

---- Respondent

For Appellant:- Mr. Chandrabhushan Kesharwani, Adv.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

13/07/2021

1. Proceedings of this matter have been taken
up through video conferencing.
2. Heard on admission and formulation of
substantial question of law in second appeal
preferred by the appellant / plaintiff.
3. By the impugned judgment and decree, the first
appellate Court has dismissed the appeal

preferred by the appellant / plaintiff affirming the judgment and decree of the trial Court dismissing the suit of the appellant / plaintiff.

4. Mr. Chandrabhushan Kesharawani, learned counsel for the appellant / plaintiff, would submit that both the Courts below have concurrently erred in holding that the plaintiff has not perfected her title by way of adverse possession over the suit land owned by the defendant by recording a finding which is perverse to the record and, as such, the appeal deserves to be admitted for hearing by formulating substantial question of law for determination.

5. I have heard learned counsel for the appellant/plaintiff, considered his rival submissions and also went through the records.

6. It is the case of plaintiff that she is in possession over the suit land owned by the defendant-Municipal Corporation for more than 20 years and that has been demolished by the defendant-Municipal Corporation without authority of law whereas she has remained in

possession for more than 20 years as concurrently recorded by both the Courts below and both the Courts below have not granted decree.

7. The trial Court has recorded a finding that for proving adverse possession against the land of State Government / land of Municipal Corporation, person claiming adverse possession must be peaceful and uninterrupted possession over the suit land for 30 years relying upon the decision of the Supreme Court in the matter of State of Rajasthan vs. Harful Sing¹. The plaintiff has not perfected her title by adverse possession as in order to claim adverse possession over the Government land / land of Municipal Corporation person claiming adverse possession must establish that she is in peaceful & uninterrupted possession over the suit land for 30 years, whereas plaintiff has pleaded that she is in possession over the suit land for more than 20 years, owned by the Corporation, and, as such, two Courts below dismissed the suit of the plaintiff.

¹ 2000(4) scale 366 (Supreme Court)

8. Finding recorded by two courts below that the plaintiff has not perfected her title by way of adverse possession over the suit land by remaining in possession for 20 years, owned by the Corporation, is the finding of the fact based on evidence available on record. It is neither perverse nor contrary to the record, as such, I do not find any substantial question of law for determination of this second appeal.

9. Accordingly, the second appeal being devoid of merit is liable to be and is hereby dismissed in *limine* without notice to other side. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Ankit