

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No. 29 of 2012

1. Salim S/o Shamsul Huq, aged about 40 years,
2. Smt. Sabnam W/o Late Shri Shamsul Huq, aged about 44 years,

Both are R/o Mahadevghat Road, Near Raipur Convent School, Raipur C.G.

----- Appellants/Defendants

Versus

- Kamal Kasar, S/o Kanhaiya Kasar, aged about 48 years, R/o Sattibazar, Near Akashdeep Kapda Dukan, Raipur C.G.

----- Respondent/Plaintiff

For Appellants/Defendants:- Mr. Ravi Bhagat, Adv.
For Respondents/Plaintiff:- Mr. Rishi Mahobia, Adv.

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

24/02/2021

1. Heard on admission and formulation of substantial question of law in the second appeal preferred by the appellants/defendants.
2. By the impugned judgment and decree, the first appellate Court has dismissed the appeal

preferred by the appellants / defendants and affirmed the judgment and decree of the trial Court decreeing the suit.

3. Mr. Ravi Bhagat, learned counsel for the appellants / defendants, would submit that both the Courts below have concurrently erred in holding that the respondent / plaintiff is title holder of the suit land and appellants / defendants are the licensee of the suit land by recording a finding which is perverse to the record and, therefore, appeal deserves to be admitted by formulating the substantial question of law for determination of this second appeal.

4. The plaintiff filed a suit that he is title holder of the suit land and the defendants are licensee of the suit land. The trial Court held that the plaintiff is owner of the suit land and the defendants are licensee over the suit land which has been terminated by the plaintiff, however, possession was not delivered to him. The finding recorded by the trial Court has been affirmed by the appellate Court decreeing the suit.

5. Concurrent finding recorded by the two Courts below that the plaintiff is title holder of the suit land and the appellants / defendants are licensee of the suit land which has been terminated by the plaintiff are finding of fact based on oral and documentary evidence available on record. Decree passed by the two Courts below cannot be said to be erroneous warranting admission of this second appeal by formulating substantial question of law. I do not find any ground for admission of this second appeal.

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

7. Learned counsel for the respondent/plaintiff would submit that decree has already been executed on 17.01.2012. His statement is placed on record.

Sd/-
(Sanjay K. Agrawal)
Judge

Ankit