

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 547 of 2015**

Raju Prasad, S/o Hariprasad Sao, Aged about 49 years, Caste Sahu, Occupation Service, Presently R/o In front of Harrapara Pariyojana Office Baikunthpur, P.S. and Tahsil Baikunthpur, Distt. Korea, Chhattisgarh.

---Appellant/Defendant No. 1

Versus

1. Jeevati Bai W/o Late Hariprasad Sao, Aged about 78 years, Caste Sahu R/o In front of Harrapara Pariyojana Office, P.S. and Tahsil Baikunthpur, Distt. Korea, Chhattisgarh. **--- Plaintiff**

2. State of Chhattisgarh, Through Collector Korea, Baikunthpur, Chhattisgarh.

--- Respondents

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Baikunthpur, Chhattisgarh.

--- Respondents

For Appellant	:- Mr. Kishore Bhaduri and
	Mr. Pankaj Singh, Advocates
For Respondent 1	:- Mr. Mahendra Dubey, Advocate
For Respondent 2/State	:- Mr. Sanjay Pathak, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

09/03/2021

1.Since both of these second appeals have arisen out of a common judgment and decree passed by the first appellate Court, therefore, both of these appeals have been heard together and are being disposed of by this common judgment.

2.Heard on admission and formulation of substantial question of law in these second appeals preferred by the appellant/plaintiff against the impugned judgment and decree by which learned first appellate Court has dismissed the appeal preferred by defendant No. 1 affirming the judgment and decree of the trial Court and partly allowed the appeal preferred by the plaintiff.

3.Mr. Kishore Bhaduri, learned counsel for the appellant/defendant No. 1, would mainly submit in second appeal No. 547/2015 that both the Courts

below have erred in holding that plaintiff is the title-holder of the suit land bearing Khasra No. 65/3क area 0.283 hectare and as such, she is entitled for possession of the house constructed in 900 sq.ft. of the said suit land by her, as such, the appeal deserves to be admitted by formulating substantial question of law.

4. Previously, Raju Prasad, who is defendant No. 1 herein, had filed Civil Suit No. 6A/08 which has been dismissed by the trial Court and affirmed by the first appellate Court against which he preferred Second Appeal No. 340/2011 and it has also been dismissed today holding that Jeevati Bai i.e. plaintiff herein is the title-holder of the suit property bearing Khasra No. 65/3क area 0.283 hectare. Thereafter, on the basis of the said finding, Jeevati Bai (plaintiff) filed Civil Suit No. 22A/2011 stating that defendant No. 1 Raju Prasad has encroached upon 900 sq.ft. of the house constructed by her on the suit land, therefore, decree for eviction and permanent injunction be granted in her favour, which has been accepted by the trial Court as well as by the first appellate Court holding that plaintiff is the title-holder of the entire suit land and

defendant No. 1 has unauthorizedly encroached upon two rooms of the house constructed by her in 900 sq.ft. of the suit land.

5. The aforesaid finding recorded by both the Courts below that plaintiff is the title-holder of the entire suit land bearing Khasra No. 65/3^क area 0.283 hectare and defendant No. 1 has unauthorizedly encroached upon the house constructed by the plaintiff in 900 sq. ft. of the suit land is a finding of fact based on evidence available on record which is neither perverse nor contrary to the record and does not involve any substantial question of law. Learned first appellate Court has not committed any illegality in affirming the judgment and decree of the trial Court. However, the first appellate Court has rightly reversed the finding of the trial Court directing plaintiff to pay additional court fees which is absolutely in accordance with law.

6. Both of these second appeals, deserve to be and are accordingly dismissed in limine without notice to the other side.

Sd/-
(Sanjay K. Agrawal)
Judge