



2026:CGHC:13357



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

SA No. 528 of 2024

Shivnandan S/o Bechan Chikwa Aged About 59 Years R/o Patrapara,
Dharamjaigarh, District- Raigarh (C.G.)

..Appellant(s)

versus

**1 - Ashok Kumar S/o Murarilal Aged About 47 Years R/o Jaistambh Chowk,
Dharamjaigarh, Present Resident- Amar Petrol Pump, Banaras Chowk,
Ambikapur, Tah- Ambikapur, District- Sarguja, C.G.**

2 - State Of Chhattisgarh Through Collector Raigarh (C.G.)

Respondent(s)

(Cause-title taken from Case Information System)

For Appellant(s) : Mr. Mahesh Kumar Mishra, Advocate

For Resp No. 2/State : Mr. Anand Gupta, Dy. GA

Hon'ble Shri Justice Bibhu Datta Guru

Judgment on Board

19/03/2026

1. The present Second Appeal has been filed under Section 100 of the Code of Civil Procedure, 1908 by the defendant, who is the appellant herein, assailing the judgment and decree dated 04.09.2024 passed in Civil Appeal No. 15/2019 (*Ashok Kumar v. Shivnandan & Anr.*) by the learned District Judge, Gharghoda, District Raipur (C.G.). By the said impugned



judgment, the First Appellate Court allowed the appeal preferred by the plaintiff (respondent No. 1 herein) and set aside the judgment and decree dated 28.01.2019 passed in Civil Suit No. 01-A/2011 (*Ashok Kumar v. Shivnandan & Anr.*) by the learned Civil Judge, Class II, Raigarh (C.G.).

2. For the sake of convenience, the parties shall hereinafter be referred to as per their status before the Trial Court.
3. (a) The plaintiff (respondent No. 1 herein) instituted a civil suit being Civil Suit No. 01-A/2011 before the Court of learned Civil Judge, Class II, Raigarh (C.G.), seeking declaration of title, recovery of possession and permanent injunction in respect of agricultural land bearing Khasra No. 1115/1A1/4, admeasuring 1.011 hectares, situated at Village Dharamjaigarh, Tahsil Dharamjaigarh, District Raigarh (C.G.) (hereinafter referred to as the “suit property”).

(b) It was the case of the plaintiff that the suit property was allotted to him by the State in land ownership rights and his name is duly recorded in the revenue records. The plaintiff claimed to be in peaceful possession and cultivation of the suit land. However, since the plaintiff was residing mostly at Ambikapur on account of his petrol pump business, the defendant No. 1 allegedly took undue advantage of his absence and encroached upon a portion of the suit land measuring 10 meters in length and 4 meters in width (total 40 sq. meters) on the eastern side and constructed a house thereon.

(c) Upon gaining knowledge of such encroachment, the plaintiff moved an application before the Tahsildar, Dharamjaigarh, and thereafter sought demarcation of the land. Pursuant to the order of the Tahsildar,



demarcation was carried out by the Revenue Inspector on 14.03.2008, and the report was supplied to the plaintiff on 09.04.2008. According to the plaintiff, during the intervening period, the defendant completed construction over the encroached portion. Thereafter, the plaintiff filed an application under Section 250 of the Chhattisgarh Land Revenue Code before the Tahsildar for restoration of possession; however, the same was dismissed on 24.06.2009 on the ground that the matter was beyond jurisdiction due to construction of a house. The appeal preferred by the plaintiff before the Sub-Divisional Officer was also dismissed on 09.06.2010 on the ground of limitation. Having failed to obtain relief from the revenue authorities, the plaintiff instituted the present civil suit claiming declaration of title, recovery of possession of the encroached portion, and permanent injunction.

(d) The defendant No. 1 (present appellant) contested the suit by filing a written statement and denied the plaintiff's title and possession over the suit land. It was contended that the plaintiff was never in possession and had not carried out any agricultural activities for the last 15–20 years. The defendant further asserted that the land in question is Government land and that he has been residing thereon for several years after constructing a house. The demarcation proceedings relied upon by the plaintiff were alleged to be illegal, *ex parte*, and not binding on the defendant.

(e) The learned Trial Court framed six issues and, upon appreciation of evidence, dismissed the suit vide judgment dated 28.01.2019. It held that the plaintiff failed to prove title, as reliance on revenue records (Ex.



P-1 to P-12) was insufficient without establishing the source of title. The plaintiff also failed to prove encroachment, in view of material contradictions, long non-cultivation, prior knowledge of construction, and non-impleadment of other alleged encroachers. Though cause of action and valuation were decided in his favour, the Trial Court further held that the Civil Court lacked jurisdiction under Section 257 of the Chhattisgarh Land Revenue Code. Accordingly, the suit was dismissed for failure to prove the claim.

4. Aggrieved by the same, the plaintiff preferred Civil Appeal No. 15/2019 before the learned District Judge, Gharghoda, District Raipur (C.G.), who, vide impugned judgment and decree dated 04.09.2024, allowed the appeal, set aside the judgment of the Trial Court, and decreed the suit in favour of the plaintiff holding that the plaintiff had duly proved his title over the suit property on the basis of the patta and its subsequent confirmation by the competent authority, that the defendant No. 1 had made unauthorized encroachment over a portion of the suit land as established by the demarcation report and evidence on record, and that the suit was within limitation and maintainable before the Civil Court. Being aggrieved by the reversal of the well-reasoned judgment of the Trial Court, the present Second Appeal has been preferred by the defendant/appellant under Section 100 of the Code of Civil Procedure, 1908.
5. Learned counsel for the appellant/defendant submits that the learned First Appellate Court has committed grave illegality in allowing the civil appeal of the plaintiff by reversing the well-reasoned judgment and



decree passed by the Trial Court without proper appreciation of evidence and settled principles of law. It is contended that the Appellate Court erred in upsetting the finding of the Trial Court regarding lack of jurisdiction of the Civil Court, ignoring the express bar contained under Section 257 of the Chhattisgarh Land Revenue Code. It is further submitted that the reliance placed upon the demarcation report (Ex. P-8) and Panchanama (Ex. P-9) is wholly misplaced, as the same were prepared in absence of defendant No. 1 and, therefore, cannot be read in evidence against him in view of Section 129 of the Code. It is also argued that the defendant No. 1 has been in long, continuous possession over the suit land for about 18 years to the knowledge of the plaintiff, and thus, the suit is barred by limitation. Accordingly, the impugned judgment and decree passed by the First Appellate Court is liable to be set aside.

6. I have heard learned counsel for the appellant on the question of admission and have carefully perused the impugned judgments and decrees passed by both the Courts as well as the material available on record.
7. At the outset, it is to be noted that the scope of interference in a Second Appeal under Section 100 of the Code of Civil Procedure is strictly confined to examination of substantial questions of law. It is well settled that this Court, in exercise of such jurisdiction, does not act as a Court of re-appreciation of evidence. Even in a case where the First Appellate Court has reversed the findings recorded by the Trial Court, interference is permissible only when the findings of the First Appellate Court are



shown to be perverse, based on no evidence, suffering from material irregularity, or involving a substantial error of law affecting the rights of the parties. Unless such infirmities are demonstrated, the findings of fact recorded by the First Appellate Court are binding in Second Appeal.

8. So far as the question relating to title of the plaintiff is concerned, the First Appellate Court has categorically held that the plaintiff has established his title over the suit property. The said finding is based upon the patta (Ex. P-4) granted in favour of the plaintiff, which has subsequently been confirmed by the competent authority vide order (Ex. P-5). Consequent thereto, correction in the revenue records was effected vide order (Ex. P-6), and the plaintiff's name came to be recorded as Bhumiswami. The Trial Court erred in rejecting the plaintiff's claim solely on the ground that revenue entries do not confer title, without appreciating that such entries, when supported by a valid source of title, do carry evidentiary value. In the present case, the source of title having been duly proved, the finding of the First Appellate Court is just and proper.
9. With regard to encroachment, the First Appellate Court has relied upon the demarcation report (Ex. P-8) and Panchanama (Ex. P-9), which clearly establish that defendant No. 1 has encroached upon a portion of the suit land admeasuring 10×4 meters. The said evidence is further corroborated by the admission of the defendant that he raised construction treating the land to be Government land. Such admission significantly strengthens the plaintiff's case. The contention that the demarcation was conducted in absence of the defendant is of no avail, as



the documents are part of official record and have been duly proved, and in any case stand corroborated by other evidence. The defendant has failed to adduce any cogent material to rebut the same or to establish any lawful right over the disputed land.

10. The contention regarding lack of jurisdiction of the Civil Court under Section 257 of the Chhattisgarh Land Revenue Code is misconceived. The dispute in the present case is essentially between the plaintiff and the defendant, who is an alleged encroacher upon the land allotted to the plaintiff under a lease. It is not a dispute between the defendant and the State Government, nor between the plaintiff and the State. Therefore, the bar under Section 257 of the Code is not attracted. The plaintiff has sought declaration of title and recovery of possession reliefs which squarely fall within the jurisdiction of the Civil Court under Section 9 of the Code of Civil Procedure. The First Appellate Court has rightly reversed the contrary finding of the Trial Court.
11. On the question of limitation, the First Appellate Court has rightly held that the cause of action arose on 14.03.2008, when demarcation of the land revealed the encroachment. The suit filed in the year 2011 is thus within limitation. The plea of long possession raised by the defendant is unsupported by consistent or reliable evidence. On the contrary, the defendant has taken contradictory stands regarding the duration of his possession, thereby rendering his defence unreliable. In absence of proof of continuous, hostile, and lawful possession for the requisite period, the plea of limitation cannot be sustained.



12. Upon overall consideration, it is evident that the findings recorded by the First Appellate Court are based on proper appreciation of both oral and documentary evidence and correct application of settled legal principles. The appellant has failed to demonstrate any perversity, misreading of evidence, or exclusion of material evidence so as to warrant interference under Section 100 of the Code.
13. No substantial question of law, much less any debatable or arguable one, arises for consideration in the present appeal.
14. Accordingly, the Second Appeal is dismissed at the stage of admission itself. No order as to costs.

Sd/-
(Bibhu Datta Guru)
Judge