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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**SA No. 633 of 2015**

Bhagwandas Rajpal S/o Shri Tikamdas Rajpal, Aged About 42 Years
R/o Tilda Camp, Police Station Nevera, Tahsil And District Raipur
Chhattisgarh.....Plaintiff, Chhattisgarh

... Appellant**versus**

1 - Rajesh Motwani S/o Late Shri Gopichand Motwani, Aged About
30 Years R/o Tilda Camp, P. S. Nevra, Tehsil Tilda, District Raipur
Chhattisgarh, Chhattisgarh

2 - Mukesh Motwani S/o Late Shri Gopichand Motwani, Aged About
26 Years R/o Tilda Camp, P. S. Nevra, Tehsil Tilda, District Raipur
Chhattisgarh, District : Raipur, Chhattisgarh

3 - Smt. Kamla Wd/o Late Shri Gopichand Motwani, Aged About 53
Years R/o Tilda Camp, P. S. Nevra, Tehsil Tilda, District Raipur
Chhattisgarh, District : Raipur, Chhattisgarh

4 - State Of Chhattisgarh Through The District Collector, Raipur,



District Raipur Chhattisgarh.....Defendents, District : Raipur,
Chhattisgarh

... Respondent(s)

(Cause title taken from CIS)

For Appellant : Shri Khulesh Sahu, Advocate appears on
behalf of Shri Pawan Kesharwani,
Advocate.

For Respondent(s) : Shri Malay Jain, Panel Lawyer.

Hon'ble Shri Bibhu Datta Guru, Judge

Order on Board

20.01.2026

1. By the present appeal under Section 100 of the CPC, the appellant/plaintiff challenging the impugned judgment and decree dated 19.08.2015 passed by the Learned 8th Additional District Judge, Raipur Distt- Raipur (C.G.) in Civil Appeal No. 10-A/2014 (Bhagwandas Rajpal v. Rajesh Motwani & Others) arising out of the judgment and decree dated 30.11.2023 passed by the learned Civil Judge, Class- II, Tilda, District Raipur (C.G.) in Civil Suit No. 29-A/09 (Bhagwandas Rajpal v. Rajesh Motwani & Others). For the sake of convenience, the parties would be referred as per their status before the learned trial Court.



2. The appellant/plaintiff, Bhagwandas, filed a suit for specific performance of contract seeking execution of a sale deed in his favour by the defendants, along with a consequential relief of permanent prohibitory injunction restraining the defendants from interfering with his possession. In the alternative, the plaintiff prayed that if the learned Trial Court held that he was not in possession of the suit land, then possession thereof be delivered to him.
3. The plaintiff pleaded in the plaint that he entered into an agreement to sell dated 14.11.2006 with Late Gopichand Motwani, the predecessor-in-interest of respondent Nos. 1 to 3, in respect of a plot forming part of Khasra No. 812/2, Sheet No. 4, Plot No. 3, situated at Tilda (Nevera), Patwari Circle No. 7, admeasuring 1800 sq. ft., for a total consideration of Rs. 19,500/-. It was pleaded that on the date of the agreement, the entire sale consideration was paid and possession of the plot was handed over to the plaintiff. Late Gopichand Motwani agreed to execute the sale deed after obtaining necessary revenue records; however, despite repeated requests, he failed to do so and died on 09.04.2008. Consequently, the suit



was filed against his legal representatives, as the agreement was binding upon them.

4. The defendants, in their written statement, denied all the averments of the plaintiff and contended that the alleged agreement to sell is forged and fabricated, as it does not bear the signatures of Late Gopichand Motwani and the attesting witnesses are close relatives of the plaintiff. It was further contended that the agreement is invalid and unenforceable for want of compulsory registration in view of the Government of India notification dated 24.09.2001, as the document allegedly records delivery of possession and payment of the entire consideration.
5. The defendants further pleaded that the suit has been filed after the death of Gopichand Motwani with a fraudulent intention, which itself casts serious doubt on the genuineness of the alleged agreement. An additional defence was raised that Late Gopichand Motwani was of unsound mind, and therefore, any alleged contract entered into by him was void ab initio under the provisions of the Indian Contract Act.
6. After appreciating the evidence available on record and after framing the issues, the learned trial Court by the judgment



and decree dated 30.11.2013 dismissed the suit of the plaintiff. Thereagainst, the Civil Appeal preferred by the plaintiff has been dismissed vide the impugned judgment and decree by the learned First Appellate Court. Thus, this appeal.

7. While dismissing the suit by the learned trial Court as well as the First Appeal by the learned First Appellate Court, it has categorically been observed that although the plaintiff claimed to have obtained possession of the suit land from Gopichand Motwani on the basis of the agreement dated 14.11.2006, no documentary evidence whatsoever was produced by the plaintiff to establish his possession over the suit land from the date of the agreement till the institution of the suit. The defendants had placed on record Exhibit D-8, the demarcation report prepared by the Revenue Inspector, who conducted spot inspection on 06.02.2008, wherein it was specifically recorded that no person other than Gopichand Motwani was found to be in possession of the suit land. In the absence of any rebuttal evidence led by the plaintiff, the Court concluded that the plaintiff was not in possession of the suit land.



8. I have heard learned counsel for the appellants, perused the material available on record.
7. The scope of interference in a Second Appeal under Section 100 of the Code of Civil Procedure is extremely limited. Interference is permissible only when the appeal involves a substantial question of law. Concurrent findings of fact recorded by both the Courts cannot be interfered with unless such findings are shown to be perverse, based on no evidence, or contrary to settled principles of law.
8. In the present case, both the Trial Court and the First Appellate Court have concurrently recorded findings, on the basis of evidence available on record, that the appellants/plaintiffs failed to establish their case by placing cogent and sufficient material. The appellants have failed to demonstrate any perversity, illegality, or misapplication of law in the findings so recorded.
9. The questions sought to be raised in the present Second Appeal essentially relate to re-appreciation of evidence and challenge to concurrent findings of fact. Such questions do not give rise to any substantial question of law within the meaning of Section 100 of the Code of Civil Procedure.



10. It is well established that when there is a concurrent finding of fact, unless it is found to be perverse, the Court should not ordinarily interfere with the said finding.
11. In the matter of ***State of Rajasthan and others Vs. Shiv Dayal and another***, reported in ***(2019) 8 SCC 637***, reiterating the settled proposition, it has been held that when any concurrent finding of fact is assailed in second appeal, the appellant is entitled to point out that it is bad in law because it was recorded *de hors* the pleadings or based on misreading of material documentary evidence or it was recorded against any provision of law and lastly, the decision is one which no Judge acting judicially could reasonably have reached.
12. Be that as it may, the argument advanced by learned counsel for the appellant and the proposed question of law cannot be regarded as satisfying the test of being 'substantial question of law' within the meaning of Section 100 of CPC. These questions, in my view, are essentially question of facts. The appellant failed to raise any substantial question of law which is required under Section 100 of the CPC in. In any event, the Second Appeal did not involve any substantial question of law as contemplated under Section 100 of the CPC, no case is



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made out by the appellant herein. The judgments impugned passed by the learned trial Court as well as First Appellate Court are just and proper and there is no illegality and infirmity at all.

13. Accordingly, the present appeal is liable to be and is hereby **dismissed.**

Sd/-

(Bibhu Datta Guru)
Judge

Shoaib