



2026:CGHC:14745

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

SA No. 98 of 2019

1 - Paras Ram (Since Dead) Legal Representatives Through (A) Ram Lal Aged About 55 Years Through Legal Representatives

1.1 - (A) Ram Lal S/o Late Paras Ram Aged About 55 Years R/o Village Tundari Moharpara, Police Station And Tahsil Bilaigarh District Balodabazar Bhatapara Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

1.2 - (B) Hori Lal S/o Late Paras Ram Aged About 50 Years R/o Village Tundari Moharpara, Police Station And Tahsil Bilaigarh District Balodabazar Bhatapara Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

1.3 - (C) Sani S/o Late Paras Ram Aged About 45 Years R/o Village Tundari Moharpara, Police Station And Tahsil Bilaigarh District Balodabazar Bhatapara Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

1.4 - (D) Hem Bai D/o Late Paras Ram Aged About 43 Years R/o Village Tundari Moharpara, Police Station And Tahsil Bilaigarh District Balodabazar Bhatapara Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

2 - Badrika Wd/o Hem Lal Aged About 50 Years R/o Village Tundari, P.H.No.01,tahsil Bilaigarh District Balodbazar Bhatapara Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

3 - Parwati D/o Hem Lal Aged About 30 Years R/o Village Tundari, P.H.No.01,tahsil Bilaigarh District Balodbazar Bhatapara Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

.Appellant(s)

Versus



- 1 - Mani Das S/o Sona Das Aged About 63 Years R/o Village Tundari, P.H.N.O
01 Tahsil Bilaigarh ,district Balodabazar Bhatapara Chhattisgarh., District.
- 2 - State Of Chhattisgarh The Collector Balodabazar District Balodabazar
Bhatapara Chhattisgarh.

Respondent(s)**(Cause-title taken from Case Information System)**

For Appellant(s)	: Mr. T.K. Jha, Advocate
For Resp No.1.	: Mr. Anand Gupta, Dy. GA

Hon'ble Shri Justice Bibhu Datta Guru**Judgment on Board****30/03/2026**

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 14/11/2018 passed in Civil Appeal No. 26A/2016 (*Mani Das v. Paras Ram & Others*) by the learned II Additional District Judge, Bhalodabazar(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 22/06/2016 passed in Civil Suit No. 09-A/2010 (*Mani Das v. Paras Ram & Others*) by the learned Civil Judge, Class II, Bhilaigarh (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 instituted the present civil suit against the defendants seeking declaration of title, demolition of the house constructed over the suit land, recovery of vacant possession, and permanent injunction. It is the case of the plaintiff that he was granted land bearing Khasra No.



589/1/1, admeasuring 0.020 hectares, by order dated 04.06.1991 passed by the Nayab Tahsildar, Bilaigarh in Revenue Case No. 0433/66 for the year 1990–91, whereby he was conferred the status of Bhumiswami. It is further pleaded that the Gram Panchayat, Dundri, had also allotted the plaintiff an abadi plot bearing Khasra No. 589/1/1, admeasuring approximately 2½ decimals (33×33 sq. ft.), vide order dated 22.06.1989.

(b) On the same date, the plaintiff's elder brother, Laxmidas, was also allotted a similar abadi plot in the same khasra number. It is pleaded that the said Laxmidas subsequently transferred his rights, title, and possession over his allotted portion in favour of the plaintiff, and thus, the plaintiff became entitled to and came in possession of the entire land measuring about 10 decimals (0.040 hectares) forming part of the suit property. The plaintiff further pleaded that he intended to construct a residential house over the said abadi land and had obtained necessary no-objection from the Gram Panchayat. He also purchased construction material, including stone, and fenced the entire land, thereby taking possession and remaining in peaceful occupation thereof since the year 1991.

(c) It is the further case of the plaintiff that in the year 2007, the defendants forcibly encroached upon the suit land and initially used the same as a threshing floor (khalihan), and thereafter, despite objections and complaints made by the plaintiff before the Gram Panchayat authorities, proceeded to raise unauthorized construction of a house consisting of four rooms over a portion of the suit land. According to the plaintiff, repeated complaints were made to the Panchayat authorities,



but the defendants did not heed to such objections and completed construction of a house measuring approximately 40×30 feet over the suit land. The cause of action is stated to have arisen on 22.07.2007 when the defendants allegedly encroached upon the land and continued thereafter. The plaintiff has valued the suit for the purposes of court fee and jurisdiction and has sought relief of declaration of title, demolition of the unauthorized construction, and delivery of vacant possession of the encroached portion of the suit land.

(d) The defendants contested the suit by filing their written statement and denied the plaint allegations in toto. It is contended that no encroachment was made by them and that defendant No. 1 has been in peaceful possession of the land for the last 30–40 years after constructing a house thereon, without any objection from any person. The defendants further pleaded that the suit is bad for non-joinder of necessary parties, particularly the plaintiff's elder brother Laxmidas, who was also allotted land and whose rights are involved. It is also contended that the plaintiff has not properly described the alleged encroachment and has undervalued the suit for the purposes of court fee.

4. On the basis of pleadings of the parties, the Trial Court framed necessary issues for adjudication and dismissed the suit holding that the plaintiff failed to prove his title over the suit property, as the patta relied upon conferred only a limited right of use and not ownership. It was further held that the alleged relinquishment by the plaintiff's brother was not legally proved for want of a registered document. The Trial Court also held that the plaintiff failed to establish encroachment, as neither



demarcation was carried out nor the identity and extent of the encroached land was proved. On the contrary, the evidence indicated that the defendants were in long-standing possession and their construction existed even prior to grant of patta to the plaintiff. It was also held that the suit was bad for non-joinder of necessary parties. Accordingly, the suit was dismissed.

5. Aggrieved by the same, the plaintiff preferred Civil Appeal No. 26-A/2018 before the learned District Judge, who, vide the impugned judgment and decree dated 14.11.2018, allowed the appeal, set aside the judgment and decree passed by 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 granted by the competent authority and the revenue records wherein his name was recorded as Bhumiswami. It was further held that the Trial Court committed legal and factual error in discarding the documentary evidence adduced by the plaintiff and in wrongly holding that the plaintiff failed to establish his title. The First Appellate Court also found that the defendants had failed to produce any documentary evidence in support of their possession and, therefore, their plea of long possession was not reliable. Accordingly, the judgment and decree of the Trial Court were set aside and the plaintiff's suit was decreed. Being aggrieved by the same, the present Second Appeal has been preferred by the defendant/appellant under Section 100 of the Code of Civil Procedure, 1908.
6. Learned counsel for the appellant submits that the First Appellate Court has committed grave illegality in allowing the appeal without proper



appreciation of pleadings and evidence on record. It is contended that the Appellate Court failed to consider the specific objections raised by the defendants, including non-joinder of a necessary party, namely Laxmi Prasad (elder brother of the plaintiff), improper valuation of the suit, and insufficient court fee. It is further submitted that the defendants have been in long-standing possession over the land for the last 30–40 years and had already constructed a house thereon much prior to the grant of patta in favour of the plaintiff, which aspect has not been duly considered. It is also argued that the First Appellate Court erred in recording findings regarding title and alleged encroachment without proper appreciation of evidence and in absence of proper demarcation of the suit land, thereby rendering the impugned judgment unsustainable in law. Learned counsel further submits that the land over which the plaintiff has claimed title is not the same land over which the defendants are in possession; however, this ground was not raised before the Trial Court or the First Appellate Court.

7. 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.
8. 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 confined to substantial questions of law. Even where the First Appellate Court has reversed the findings of the Trial Court, interference is warranted only if such findings are perverse, based on no evidence, or suffer from a



substantial error of law.

9. In the present case, the First Appellate Court has recorded a categorical finding that the plaintiff has established his title over the suit property on the basis of the patta granted by the competent authority and the revenue records wherein his name is duly recorded. The said finding is based on proper appreciation of documentary evidence and does not suffer from any perversity so as to warrant interference.
10. So far as the contention regarding long possession of the defendants is concerned, the same has rightly been disbelieved by the First Appellate Court in absence of any cogent documentary evidence. Mere oral assertions of long possession, without any supporting material, cannot defeat the title established by the plaintiff through revenue records.
11. The contention regarding non-joinder of necessary party and improper valuation of the suit has also been duly considered by the First Appellate Court and no material illegality has been demonstrated in the findings recorded thereon. The additional ground raised by the appellant regarding identity of the land, not having been raised before the Courts below, cannot be permitted to be raised for the first time in Second Appeal. It is also noteworthy that the defendants themselves have never pleaded, either in the written statement or at any stage before the Courts below, that the land in their possession is different from the suit land, and no such contention was ever put forth during trial. Hence, the said plea is clearly an afterthought and cannot be entertained at this stage.



12. Upon overall consideration of the matter, it is evident that the findings recorded by the First Appellate Court are based on proper appreciation of evidence and correct application of legal principles. The appellant has failed to demonstrate any perversity, illegality, or substantial question of law arising in the present appeal.
13. Accordingly, no substantial question of law arises for consideration in this Second Appeal. The appeal is, therefore, dismissed at the stage of admission itself. No order as to costs.

SD/-
(Bibhu Datta Guru)
Judge