



2026:CGHC:9480

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

SA No. 610 of 2016

Smt. Asha Sethi W/o Shri Ashok Sethi, Aged About 60 Years R/o 27
Balbinder Apts Mayur Bagh C G H S A/6 Pachim Vihar New Delhi
... **Appellant(s)**

versus

1. Managing Director Power Grid Corporation Of India Ltd. Janjgiri,
Tehsil Dhamdha, Distt. Durg, Chhattisgarh,

2. State Govt. Of Chhattisgarh Through Collector Distt. Durg,
Chhattisgarh

... **Respondent(s)**

For Appellant(s)	:	Mr. R.S. Patel, Advocate
For Respondent No. 1	:	Mr. Arindam Mishra on behalf of Mr. Vaibhav Shukla, Advocate
For Respondent No. 2/ State	:	Mr. Anand Gupta, Dy. G.A.

Hon'ble Shri Bibhu Datta Guru, Judge

Judgment on Board

24.02.2026

1. The plaintiff/ appellant has preferred this second appeal under Section 100 of the Code of Civil Procedure, 1908 (for brevity CPC) against the judgment & decree dated

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10.10.2014 passed by the Learned 2nd Additional District Judge, Durg, C.G. in Civil Appeal No. 18-A/2013 (Smt. Asha Sethi Vs. Managing Director & Anr.) affirming the judgment and decree dated 12.05.2010 passed by the Trial Court in Civil Suit No. 35A/2008 (Smt. Asha Sethi Vs. Managing Director & Anr.) whereby the learned trial Judge has dismissed the suit of the plaintiff/ appellant. For the sake of convenience, the parties would be referred as per their status before the learned trial Court.

2. The plaintiff preferred the present suit seeking declaration of title and permanent injunction pleading inter alia that the land situated at Village Janzgiri, Patwari Halka No. 57/44, Tahsil Dhamdha, District Durg, bearing Khasra Nos. 671/7 and 672/7, admeasuring 4320 sq. ft. (0.040 hectare), was purchased by the plaintiff on 01.03.1984 from the vendor A.K. Rawal through a registered sale deed. The said land was purchased with the intention of constructing a residential house thereon in future. It is further pleaded that in the month of June, 2007, when the plaintiff visited the plot, she came to know that the said land had been taken over by defendant No. 1 without her knowledge. Upon acquiring such knowledge, the plaintiff issued a legal notice to defendant No. 1; however, no reply was received. It is averred that in the notification issued by the then State

of Madhya Pradesh regarding acquisition, the plaintiff's land was not mentioned, which clearly indicates that defendant No. 1, by encroaching upon the suit land, got his name recorded in the revenue records without lawful authority. It is further contended that the suit land has not been put to use till date. Hence, the plaintiff filed the suit seeking declaration that the acquisition proceedings do not apply to the suit land and consequently, defendant No. 1 be restrained from raising any construction over the suit property.

3. Defendant No. 1, in his written statement, denied the averments made in the plaint and contended that the suit land was duly and regularly acquired by defendant No. 2 and, thereafter, possession of the same was handed over to defendant No. 1. It is further pleaded that the suit land presently stands recorded in the name of defendant No. 1 in the revenue records. It is also contended that compensation in respect of the acquisition has already been paid. Additionally, it is pleaded that the suit filed by the plaintiff is barred by limitation. Hence, the defendant has prayed for dismissal of the suit.
4. Before the Trial court defendant No. 2 was proceeded ex parte.
5. On the pleadings of the parties, the learned trial Judge

framed as many as 6 issues and given opportunity to the parties to adduce evidence, both oral and documentary and after a full fledged trial, the learned Trial Court, held that though the plaintiff had proved the execution of the registered sale deed dated 01.03.1984 in her favour in respect of the suit land, she failed to establish that her name had been duly mutated in the revenue records prior to the initiation of the acquisition proceedings in respect of the suit land. The Court observed that the B-1 and Khasra entries did not reflect her name as recorded tenure-holder at the relevant time and that the land continued to stand in the name of the original owner when the acquisition was undertaken. Although the plaintiff contended that the Khasra numbers were changed after mutation, no reliable documentary evidence was produced to substantiate such plea. The Court further found that the acquisition notifications were duly published in the Official Gazette and in a daily newspaper, inviting objections from interested persons, and that the acquisition formed part of a large-scale public project. In view of such public notice and the absence of mutation in the plaintiff's favour, the plea that the acquisition was conducted clandestinely or without knowledge was not accepted. It was also noted that possession had been taken in the year 1997 whereas the suit was instituted only in 2007. Accordingly, holding

that no illegality in the acquisition proceedings was proved and that the plaintiff was not entitled to declaration and injunction, the Trial Court dismissed the suit.

6. Against the judgment and decree passed by the trial Court the plaintiff/ appellant has preferred first appeal before the First Appellate Court which has been dismissed vide judgment and decree impugned herein affirming the findings of the trial Court. Aggrieved by the judgment and decree passed by the First Appellate Court, the present Second Appeal has been filed by the plaintiff.
7. Learned counsel for the appellant has argued that the acquisition proceedings in respect of the suit land are illegal and void, as the appellant was never informed about the initiation or completion of such proceedings. It is contended that the appellant had purchased the land through a duly registered sale deed and had acquired valid title over the same, yet the authorities proceeded with the acquisition without issuing any notice to her or affording her an opportunity of hearing. According to learned counsel, the acquisition having been undertaken without the knowledge and participation of the appellant stands vitiated and is liable to be declared invalid. Learned counsel for the appellant by referring Rin Pustika (Ex.P/2) submits that the Rin Pustika is a revenue record which

certifies his ownership over the suit land. He also submits that the Khasra number of land purchased by him has been changed and duly recorded in the Rin Pustika.

8. I have heard learned counsel for the parties, perused the material available on record.

9. This Court finds no substance in the aforesaid submission.

The material available on record clearly demonstrates that on the date of initiation and culmination of the acquisition proceedings, the suit land stood recorded in the revenue records in the name of the original holder i.e. A.K. Rawal and had not been mutated in the name of the appellant. In the absence of mutation and corresponding entries in the revenue records, the acquiring authority was justified in proceeding on the basis of the existing revenue entries. It cannot, therefore, be held that there was any procedural illegality merely on the ground that no individual notice was served upon the appellant. It is further borne out from the record that the compensation amount pursuant to the acquisition proceedings had been duly assessed and disbursed in accordance with the provisions of the Land Acquisition Act, 1894. In such circumstances, the acquisition proceedings cannot be said to be vitiated on the ground urged by the appellant.

10. As far as, Rin Pustika (Ex.P/2) is concerned, the land

claimed to be purchased from Mr. A.K. Rawal, bearing Khasra No. 371/7 & 372/7, whereas the Rin Pustika is of land bearing Khasra No. 671/10 & 672/10. The appellant/plaintiff failed to prove or plead in plaint about the said change of Khasra numbers in Rin Pustika. There is no evidence adduced by the plaintiff in this regard & even regarding mutation of the said land in Revenue record.

11. Further from the material available on record, it is apparent that the learned First Appellate Court, upon reappreciation of the oral and documentary evidence, affirmed the findings of the Trial Court and dismissed the appeal. The Appellate Court observed that although the plaintiff had purchased the suit land through a registered sale deed dated 01.03.1984, the acquisition proceedings were initiated after due publication in the Madhya Pradesh Gazette dated 05.01.1996 and in a daily newspaper dated 07.01.1996 for a public purpose, namely establishment of a 400/200 KV विद्युत उपकेन्द्र. It was further noticed that at the relevant time the plaintiff was residing in District Durg and that the acquisition pertained to a large extent of land in the same village. In such circumstances, the plea that the acquisition was carried out secretly and without her knowledge was found to be untenable. The Appellate Court also recorded that possession of the suit land had

been taken on 03.12.1997 and that no objection was raised by the plaintiff pursuant to the public notification. It was further held that the challenge to the acquisition proceedings was made after considerable delay, as the acquisition had been completed in 1997 whereas the plaintiff questioned the same much later. The contention regarding non-payment of compensation was also not accepted in view of the material on record. Consequently, finding no illegality or perversity in the appreciation of evidence by the Trial Court, the First Appellate Court affirmed the judgment and decree dated 12.05.2010 and dismissed the appeal.

12. Even otherwise, 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.

13. 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/ defendants 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.

14. 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.

15. 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.

16. 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.

17. 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 any event, the Second Appeal did not involve any substantial question of law as contemplated under Section 100 of the CPC, no case is made out by the appellant herein. The judgments impugned passed by the learned trial Court as well as by the learned First Appellate Court are just and proper and there is no illegality and infirmity at all.

18. Having heard learned counsel for the appellants and on perusal of the record of the case and in view of the above settled legal proposition, I find absolutely no merit in this appeal, involving no question of law much less substantial question of law within the meaning of Section 100 of the CPC. In my view, the judgment and decree passed by both the Courts appear to be just, proper and legal. The findings recorded are based on proper appreciation of evidence available on record and there is no illegality or perversity in the same and they do not call for any interference.

19. Consequently, the Second Appeal fails and is hereby **dismissed** in *limine* resulting in upholding of the judgment and decree of the trial Court as well as the Appellate Court.

Sd/-
(Bibhu Datta Guru)
Judge