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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

SA No. 187 of 2019

1 - Jageshwar S/o Shri Kartik Aged About 69 Years Caste - Mahkul, R/o Village - Gala, Tahsil - Patthalgaon, District Jashpur Chhattisgarh. (Defendant No. 1), District : Jashpur, Chhattisgarh

2 - Gajendra S/o Late Shri Shibo Aged About 29 Years Caste - Mahkul, R/o Village - Gala, Tahsil - Patthalgaon, District Jashpur Chhattisgarh. (Defendant No. 2), District : Jashpur, Chhattisgarh

3 - Virendra S/o Late Shri Shibo Aged About 27 Years Caste - Mahkul, R/o Village - Gala, Tahsil - Patthalgaon, District Jashpur Chhattisgarh. (Defendant No. 3), District : Jashpur, Chhattisgarh

4 - Malti Wd/o Late Shri Shibo (Dead).

4.1 - (A). Smt. Tarabai D/o Late Shri Shibo Aged About 35 Years W/o Shri Muralidhar, Occupation - Agriculture, R/o Golabuda, Tahsil - Dharamjaigarh, District Raigarh Chhattisgarh. (Defendant No. 4), District : Raigarh, Chhattisgarh

5 - Chandro S/o Shri Kartika Aged About 59 Years Caste - Mahkul, R/o Village - Gala, Tahsil - Patthalgaon, District Jashpur Chhattisgarh. (Defendant No. 5), District : Jashpur, Chhattisgarh

6 - Shobhnath S/o Shri Bhagwano Aged About 59 Years Caste - Mahkul, R/o Village - Gala, Tahsil - Patthalgaon, District Jashpur Chhattisgarh. (Defendant No. 6), District : Jashpur, Chhattisgarh

7 - Onkar S/o Shri Bhagwano Aged About 57 Years Caste - Mahkul, R/o Village - Gala, Tahsil - Patthalgaon, District Jashpur Chhattisgarh. (Defendant No. 7), District : Jashpur, Chhattisgarh

... Appellants

versus

1 - Sukhcharan S/o Shri Ramchandra Aged About 44 Years R/o Village - Gala, Tahsil - Pathalgaon, District Jashpur Chhattisgarh. (Plaintiff), District : Jashpur, Chhattisgarh

2 - Khiro Bai W/o Shri Kandro Ram Aged About 78 Years Caste -



Mahkul, R/o Village - Kachhar, Tahsil - Patthalgaon, District Jashpur Chhattisgarh. (Defendant No. 9), District : Jashpur, Chhattisgarh

3 - State Of Chhattisgarh Through The Collector Jashpur, District - Jashpur Chhattisgarh. (Defendant No. 8), District : Jashpur, Chhattisgarh

--- Respondents

For Appellant	: Mr. Ajeet Kumar Yadav, Advocate
For Respondent/State	: Mr. Ritesh Giri, Panel Lawyer

Hon'ble Shri Bibhu Datta Guru, Judge
Judgment on Board

07.01.2026

1. By the present appeal under Section 100 of the CPC, the appellants/defendants challenging the impugned judgment and decree dated 05/01/2019 passed by the learned Additional Judge to the Court of Additional District Judge, Kunkuri, District Jashpur, C.G. in C. Reg. Civil Appeal No.10-A/2017 (Jageshwar & Ors Vs. Sukhcharan & Ors) arising out of the judgment dated 23/02/2017 passed by the learned Civil Judge Class-II, Pathalgaon, District Jashpur, C.G. in Civil Suit No.12-A/2012 (Sukhcharan Vs. Jageshwar & Ors). For the sake of convenience, the parties would be referred as per their status before the learned trial Court.
2. The plaintiffs preferred the Civil Suit seeking declaration of title, possession and perpetual injunction in respect of the suit land i.e. the land bearing Khasara No. 631/669 situated in Village Gala, Patwari Halka No.6, Tahsil- Patthalgaon, District- Jashpur (C.G.).



The case of the respondent no.1 (the plaintiff) in substance, is that the respondent no.2 (the defendant no.9)- Khiro Bai was the original owner of the suit land. The suit land along with some other lands were obtained by Baishakhu (the father of Khiro Bai) in partition and after death of Baishakhu, the suit land was obtained by Khiro Bai in inheritance. On 29.03.2010, the suit land was sold to the respondent no.1 (the plaintiff) vide registered sale deed dated 29.03.2010 executed by the respondent no.2 Khiro Bai (the defendant no.9) in favour of the respondent no.1 (the plaintiff) and thereafter the suit land was mutated into the name of the respondent no.1 (the plaintiff) but when an application was preferred by the respondent no.1 (the plaintiff) for demarcation of the suit land, it was the appellants (the defendant no.1 to 7) who made collusion with revenue inspector and thereby got report prepared to the effect that the suit land is in illegal possession of the appellants (the defendant no.1 to 7) and on basis of the report, the Sub Divisional Magistrate Patthalgaon, District Jashpur (C.G.) passed the order dated 31.08.2012 and thereby declared the possession of the appellants (the defendant no.1 to 7), and therefore, the suit had to be filed by the respondent no.1.

3. In the said Civil Suit, the defendants No.1 to 7 submitted their joint written statement and opposed the suit filed by the respondent No.1 (the plaintiff). Furthermore, the appellants/defendants also filed counter claim, submitting in substance that the suit land is the ancestral property of the



appellants. Bholuram had two sons namely Kandrapo and Kuraso. Baishakhu was the son of Kandrapo and the appellants/defendants are the successors of Kuraso. In so far as the suit land is concerned, the suit land was obtained by Kuraso in partition taken place between Kuraso and Kandrapo and since then the suit land remained in possession of the appellants (the defendant no.1 to 7) and their predecessors but due to mistake, the name of the respondent no.2- Khiro Bai (the defendant no.9) was recorded in revenue record and it was the respondent no.2- Khiro Bai (the defendant no.9) who took undue advantage and sold the suit land to the respondent no.1- Sukhcharan (the plaintiff) in illegal manner and as such the respondent no.1 gets no title from the sale deed executed by the respondent no.2- Khiro Bai (the defendant no.9). Furthermore, the appellants/defendants have also acquired title on basis of adverse possession and therefore, the counter claim filed by the appellants (the defendant no.1 to 7) is liable to be allowed.

4. Respondent No.3 (defendant No.8) remained ex-parte.
5. The learned trial Court after framing the issues and considering the evidence adduced by the parties, as also material available on record, allowed the suit holding that the plaintiff established his case by placing oral and documentary evidence.
6. Against the said judgment and decree, the defendants preferred a Civil Appeal before the learned First Appellate Court, by which,



the first appellate Court partly allowed the civil appeal filed by the appellants/defendants and partly allowed the plaintiff's suit as well as the counter-claim of Defendant Nos. 01 to 07, and thereby passed the following modified decree:-

"1. The plaintiff is hereby declared to be the owner of the actual suit land bearing Khasra No. 669, which is recorded in the revenue records as a divided share along with Khasra No. 631.

2. The defendants shall hand over vacant and peaceful possession of the aforesaid land to the plaintiff.

3. After delivery of possession, the defendants are permanently restrained by a decree of permanent injunction from interfering, either personally or through any other person, with the plaintiff's peaceful possession of the said land.

4. The defendants No. 01 to 07 are hereby declared to be the owners of the land bearing Khasra No. 631, which is recorded in the revenue records as a divided share along with the actual suit land Khasra No. 669, and their possession over the said land is hereby confirmed.

5. The plaintiff is permanently restrained by a decree of permanent injunction from interfering, either personally or through any other person, with the possession of the defendants over the said land.

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

8. 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. 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. 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 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. Be that as it may, the argument advanced by learned counsel for the appellants 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 appellants 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 appellants 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



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all.

11. Accordingly, the present appeal is liable to be and is hereby
dismissed at the motion stage itself.

SD/-

(Bibhu Datta Guru)
Judge

Gowri/
Amardeep