



2026:CGHC:9560



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

SA No. 213 of 2022

Ravindra Nath Agrawal S/o Suryavanshi Lal Agrawal, Aged About 74 Years Caste Agrawal, R/o. Baniyapara, Raipur, Police Station And Tahsil Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

... Appellant(s)

versus

1. Harish (Dead) Through LR's

1.1 Murlidhar S/o Anandram @ Anant Ram Sindhi, Aged About 34 Years Caste Sindhi, R/o Akaltara, Near Sabji Mandi, Behind Om Kirana Store, Akaltara, Tahsil And Police Station Akaltara, District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

2. Rajkumar S/o Anandram @ Anant Ram Sindhi (Now Died) Through LR's

2.(A) Lakki Chandwani , S/o Late Rajkumar Aged About 30 Years Caste Sindhi, R/o Akaltara, Near Sabji Mandi, Behind Om Kirana Store, Akaltara, Tahsil And Police Station Akaltara, District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

2.(B) Rahul Chandwani, S/o Late Rajkumar, Aged About 27 Years Caste Sindhi, R/o Akaltara, Near Sabji Mandi, Behind Om Kirana Store, Akaltara, Tahsil And Police Station Akaltara, District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

2.(C) Manisha Chandwani D/o Late Rajkumar, Aged About 24 Years Caste Sindhi, R/o Akaltara, Near Sabji Mandi, Behind Om Kirana Store, Akaltara, Tahsil And Police Station Akaltara, District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

2. (D) Smt. Savita Chandwani, Wd/o Late Rajkumar, Aged About 50

Years Caste Sindhi, R/o Akaltara, Near Sabji Mandi, Behind Om Kirana Store, Akaltara, Tahsil And Police Station Akaltara, District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

... Respondent(s)

For Appellant(s)	:	Mr. N. K. Chatterjee, Advocate
For Respondent / State	:	Mr. Lekhram Dhruv, P.L.

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 07.01.2022 passed by the Learned 1st Additional District Judge, Janjgir-Champa, C.G. in Civil Appeal No. 40-A/2020 (Ravindra Nath Agrawal Vs. Harish & Anr.) affirming the judgment and decree dated 25.04.2018 passed by the Trial Court in Civil Suit No. 112-A/2011 (Ravindra Nath Agrawal Vs. Harish & 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, permanent injunction and recovery of rent amount

pleading inter alia that the suit property is a house situated at Akaltara, originally owned by the plaintiff's mother, late Smt. Laxmi Bai, who had let it out on a monthly rent of Rs. 210/- to the father of the defendants, late Anand Rai @ Anand Ram, who resided therein with his family as a tenant. After the death of the plaintiff's mother, the plaintiff became the owner of the suit house, and upon the death of the original tenant, the defendants continued in possession as tenants under the plaintiff, to whom rent receipts were allegedly issued. It is pleaded that the defendants defaulted in payment of 11 months' rent amounting to Rs. 2,420/- and, despite termination of tenancy, refused to vacate the premises. The plaintiff further alleged that, without his consent, the defendants demolished a portion of the existing kachcha structure and constructed a new brick wall of about 12 feet with an intention to raise permanent construction, which was stated to be illegal and beyond the rights of a tenant. It is also averred that the defendants denied the plaintiff's title, thereby clouding his ownership. On these pleadings, the plaintiff sought arrears of rent, eviction and recovery of possession, permanent and mandatory injunction restraining further construction and directing demolition of the newly raised wall, declaration of title, and costs.

3. The defendants filed their written statement denying the averments made in the plaint paragraph-wise. In substance, it was pleaded that the plaintiff is neither the owner of the suit house nor are the defendants his tenants, and that no rent was ever paid to the plaintiff. The defendants asserted that the suit house had existed in a kachcha form since the time of their ancestors and had become dilapidated and eventually collapsed due to rain and wear & tear. According to them, they carried out only such repair and improvement works as were necessary for their safety, and being in their own right, they were under no obligation to obtain any permission from the plaintiff, whom they described as having no title over the property. It was further stated that no construction or repair work was undertaken on 12.05.2005 as alleged. The defendants contended that the plaintiff had no right to seek eviction and that no cause of action had ever arisen in his favour. The suit, according to the defendants, was filed only to harass them, and they prayed for dismissal of the suit with compensatory costs.
4. On the pleadings of the parties, the learned trial Judge framed as many as 4 issues and given opportunity to the parties to adduce evidence, both oral and documentary and after a full fledged trial, the learned Trial Court, upon

appreciation of the oral and documentary evidence, held that the burden of proving ownership, tenancy and unauthorized construction squarely lay upon the plaintiff. Though the plaintiff examined himself and two supporting witnesses and produced a rent receipt book (Ex. P/1), in his cross-examination he admitted that no rent agreement had ever been executed, that he had not filed any document to establish either his own title or that of his mother over the suit house, nor any revenue record or ownership document, and that no receipt evidencing payment of rent by the original tenant to his mother had been produced. His witnesses also failed to substantiate the ownership or tenancy; one admitted lack of knowledge regarding the property and that his affidavit was not prepared on his instructions, while the other could not state whether the house belonged to the plaintiff or his mother. The Court further observed that the receipt book produced by the plaintiff was in his own custody and could not, by itself, constitute conclusive proof of either title or tenancy. In absence of cogent documentary evidence, and applying the settled principle that a plaintiff must succeed on the strength of his own case and not on the weakness of the defence, the Trial Court concluded that the plaintiff failed to establish his ownership, the relationship of landlord and tenant, or any unauthorized construction by the

defendants. Consequently, Issues No. 1, 2 and 4 were decided against the plaintiff, and the suit was dismissed in entirety, holding that he was not entitled to any relief.

5. 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.
6. Learned counsel for the appellant submits that the First Appellate Court erred in rejecting the application under Order 41 Rule 27 CPC and dismissing the appeal without properly considering the relevance of the additional documents sought to be produced, including rent receipts, gift deed and sale deed, which were essential to establish the plaintiff's ownership and tenancy of the defendants. It is contended that these documents were already part of the record in earlier proceedings before the District Court, Janjgir, and their copies were filed for perusal, but the Appellate Court dismissed the application on the ground of non-explanation for earlier non-production, thereby causing serious prejudice.

7. I have heard learned counsel for the parties, perused the material available on record.
8. From the material available on record, it is apparent that The First Appellate Court, upon re-appreciation of the pleadings and evidence, held that the very nature of the suit as framed by the plaintiff was misconceived. It observed that the plaint did not clearly disclose under which statutory provisions the suit had been instituted, inasmuch as the plaintiff had simultaneously sought eviction and arrears of rent, declaration of title, and permanent injunction. The Court noted that if the plaintiff claimed to be landlord seeking eviction and arrears of rent from his tenant, the suit ought to have been instituted under the provisions of the Chhattisgarh Accommodation Control Act, 1961, particularly Section 12 thereof. Conversely, reliefs of declaration and permanent injunction could only be sought in a properly constituted civil suit under Sections 34 and 38 of the Specific Relief Act, 1963. On this ground, the suit was found to be not maintainable in the form presented.
9. On merits also, the Appellate Court held that the plaintiff failed to establish ownership of the suit house. Though he examined himself and two witnesses who reiterated the plaint averments, no documentary evidence of title was

produced. The Court observed that ownership of immovable property must be proved by cogent documentary evidence and not merely by oral assertions, and that the plaintiff's failure to produce the best available evidence warranted an adverse inference against him. Further, since the plaintiff could not prove his own title, he also failed to establish that his mother had validly let out the suit house to the defendants' father or that any landlord-tenant relationship existed between the parties. Finding no legal or factual error in the judgment and decree of the Trial Court, the First Appellate Court dismissed the appeal and affirmed the decree.

10. 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.
11. 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 appellant/ defendant failed to establish their case by

placing cogent and sufficient material. The appellant has failed to demonstrate any perversity, illegality, or misapplication of law in the findings so recorded.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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