



2026:CGHC:18168

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**SA No. 21 of 2017**

1 - Lalmuni S/o Amir Singh, Aged About 45 Years Caste Rautiya, R/o Village Chherdand Tukutoli Tahsil Duldula, District Jashpur, Chhattisgarh, Chhattisgarh

2 - Rajkishore S/o Amir Singh, Aged About 35 Years Caste Rautiya, R/o Village Chherdand Tukutoli Tahsil Duldula, District Jashpur, Chhattisgarh.

3 - Smt. Gulapi Singh (Died And Deleted) As Per Honble Court Order Dated 31-10-2025 And 10-03-2026.

4 - Smt. Bhagwati Singh D/o Late Jagdev Singh, Aged About 34 Years W/o Virendra Kumar, Caste Rautiya, R/o Village Chherdand Tukutoli Tahsil Duldula, District Jashpur, Chhattisgarh.

5 - Jayshanker Singh S/o Late Jagdev Singh, Aged About 32 Years Caste Rautiya, R/o Village Chherdand Tukutoli Tahsil Duldula, District Jashpur, Chhattisgarh.

6 - Ku. Chandrakala D/o Late Jagdev Singh, Aged About 29 Years Caste Rautiya, R/o Village Chherdand Tukutoli Tahsil Duldula, District Jashpur, Chhattisgarh, District : Jashpur, Chhattisgarh

7 - Yashwant Singh S/o Late Jagdev Singh, Aged About 24 Years Caste Rautiya, R/o Village Chherdand Tukutoli Tahsil Duldula, District Jashpur, Chhattisgarh, District : Jashpur, Chhattisgarh

8 - Satyadev Singh S/o Late Jagdev Singh, Aged About 22 Years Caste Rautiya, R/o Village Chherdand Tukutoli Tahsil Duldula, District Jashpur, Chhattisgarh.

.Appellant(s)**versus**



- 1** - Sahaudra Bai D/o Gambhir Singh, Aged About 55 Years W/o Banshidhar Singh, Caste Rautiya, R/o Village Chherdand Tukatoli Tahsil Duldula, District Jashpur, Chhattisgarh.
- 2** - Saraswati D/o Gambhir Singh, Aged About 52 Years W/o Sardayal Singh, Caste Rautiya, R/o Village Sendrimunda, Tahsil Duldula, District Jashpur, Chhattisgarh.
- 3** - Sanmati D/o Tahlu, Aged About 55 Years R/o Village Chherdand, Tahsil Bagicha, Uptahsil Kansabel, District Jashpur, Chhattisgarh.
- 4** - Mus. Lalita Bai Wd/o Ramnath Singh, Aged About 45 Years Caste Rautiya, R/o Village Gattibuda, Tahsil Duldula, District Jashpur, Chhattisgarh.
- 5** - Hukumchand Singh S/o Ramnath Singh, Aged About 22 Years Caste Rautiya, R/o Village Gattibuda, Tahsil Duldula, District Jashpur, Chhattisgarh.
- 6** - Makund Singh S/o Ramnath Singh, Aged About 20 Years Caste Rautiya, R/o Village Gattibuda, Tahsil Duldula, District Jashpur, Chhattisgarh.
- 7** - Shivnath Singh S/o Jaypal Singh, Aged About 40 Years Caste Rautiya, R/o Village Gattibuda, Tahsil Duldula, District Jashpur, Chhattisgarh.
- 8** - Uttam Singh S/o Jaypal Singh, Aged About 35 Years Caste Rautiya, R/o Village Gattibuda, Tahsil Duldula, District Jashpur, Chhattisgarh.
- 9** - Budhani (Died) Through Lrs As Per Honble Court Order Dated 30-03-2026.
 - 9.1** - Parmeshwar Singh M/o Budhani Aged About 47 Years R/o Village Jammunda, Tahsil Kansabel, District- Jashpur, Chhattisgarh.
 - 9.2** - Rameshwar Singh M/o Budhani Aged About 42 Years R/o Village Jammunda, Tahsil Kansabel, District- Jashpur, Chhattisgarh.
 - 9.3** - Harinath Singh M/o Budhani Aged About 37 Years R/o Village Jammunda, Tahsil Kansabel, District- Jashpur, Chhattisgarh.
- 10** - Kishun Ram (Died) Through Lrs As Per Honble Court Order Dated 30-03-2026.
 - 10.1** - Kunti Bai W/o Late Kishun Ram Aged About 65 Years R/o Village Bangurkela, Tahsil Duldula, District- Jashpur, Chhattisgarh.
 - 10.2** - Rajmati Bai D/o Kishun Ram Aged About 45 Years R/o Village Cherdand (Tukutoli), Tahsil Duldula, District- Jashpur, Chhattisgarh.



10.3 - Pramod Singh S/o Kishun Singh Aged About 44 Years R/o Village Bangurkela, Tahsil Duldula, District- Jashpur, Chhattisgarh.

10.4 - Raghunandan Singh S/o Kishun Singh Aged About 38 Years R/o Village Bangurkela, Tahsil Duldula, District- Jashpur, Chhattisgarh.

10.5 - Pratima Bai D/o Kishun Singh Aged About 28 Years R/o Village Sendrimunda, Tahsil Kunkuri, District- Jashpur, Chhattisgarh.

11 - Damodar Ram S/o Loknath, Aged About 45 Years R/o Village Bangurkela, Tahsil Duldula, District Jashpur, Chhattisgarh, District : Jashpur, Chhattisgarh

12 - State Of Chhattisgarh, Through Collector, District Jashpur, Chhattisgarh

Respondent(s)

(Cause-title taken from Case Information System)

For Appellant(s) : Mr. J.K. Saxena, Advocate

For Resp No. 1 to 11 : Mr. G.L. Uike, Advocate

For Resp No. 12 : Mr. Anand Gupta, Dy. GA

Hon'ble Shri Justice Bibhu Datta Guru
Judgment on Board

21/04/2026

1. The present Second Appeal has been preferred under Section 100 of the Code of Civil Procedure, 1908 by the plaintiffs, who are the appellants herein, challenging the judgment and decree dated 22/11/2016 passed in Civil Appeal No. 15-A/2011 (*Lalmuni & Others v. Gambhir Singh & Others*) by the learned Additional District Judge, Kunkuri, District Jashpur (C.G.). By the said judgment, the First Appellate Court dismissed the appeal filed by the plaintiffs/appellants and affirmed the judgment and decree dated 30/07/2011 passed in Civil Suit No. 8A/2011 by the Civil Judge Class-I, Kunkuri whereby the suit filed by the plaintiffs had been dismissed.
2. For the sake of convenience, the parties shall hereinafter be referred to as



per their status before the Trial Court.

3. (a) The plaintiffs instituted a civil suit seeking declaration of title and confirmation of possession over the lands described in Schedule “B” and “C” of the plaint. It was their case that the suit land forming part of Khasra No. 20, admeasuring 53.67 acres, was originally recorded in the names of their predecessors during the settlement of the year 1926–27, and that they are the legal heirs thereof. According to the plaintiffs, a mutual partition had taken place between the predecessors of the parties about 60 years prior, pursuant to which the parties came into possession of their respective shares and have since been in continuous possession thereof. It was further pleaded that the lands described in Schedule “B” had fallen to the share of plaintiff Nos. 1 to 3 and those in Schedule “C” to plaintiff Nos. 4 and 5.
- (b) The defendants filed the written statement and denied the plaint averments. They contended that the suit property is joint ancestral property and that no partition, as alleged by the plaintiffs, had ever taken place. The defendants further set up a counterclaim seeking declaration of their respective shares to the extent of 1/4th each in the suit property, partition by metes and bounds, and separate possession thereof, along with consequential relief of permanent injunction.
- (c) It is not in dispute that earlier revenue proceedings for partition were initiated by defendant No. 1, which were subsequently withdrawn and refiled, and in those proceedings, upon objection raised by the plaintiffs, the revenue authority directed the parties to approach the Civil Court for adjudication of title, whereafter the present suit and



counterclaim came to be instituted.

(d) The plaintiffs filed their reply to the counterclaim denying the claim of joint ownership and reiterating that the suit property had already been partitioned long back and that they are in exclusive possession of their respective shares.

4. On the basis of the pleadings of the parties, the learned Trial Court framed the necessary issues for adjudication and, upon appreciation of the oral and documentary evidence, held that the plaintiffs failed to establish their case of exclusive title and prior partition over the suit land. The Trial Court found that the evidence on record, including revenue entries, oral testimony of witnesses, and admissions made during cross-examination, indicated that the suit property was originally held by the common ancestors of the parties and continued to be jointly possessed and cultivated by them. The Trial Court further held that the plaintiffs failed to prove the alleged partition as pleaded in the plaint. It was observed that the plaintiffs' evidence regarding exclusive allotment of specific portions of land was not supported by any reliable documentary material. On the contrary, the evidence led by the defendants, including revenue records and admissions of the parties, supported the case that the parties were in joint possession and were cultivating the land according to mutual arrangement without any formal partition. Accordingly, the Trial Court dismissed the suit of the plaintiffs. The counterclaim filed by the defendants was allowed, and it was declared that the suit land was joint ancestral property and each branch of the family was entitled to equal share therein.



5. Being aggrieved by the judgment and decree passed by the learned Trial Court, the plaintiffs preferred a first appeal. The learned First Appellate Court, upon re-appreciation of the entire evidence on record, concurred with the findings recorded by the Trial Court and held that the plaintiffs had failed to establish their case of exclusive title and prior partition. The First Appellate Court found no infirmity in the reasoning or conclusions of the Trial Court and accordingly dismissed the appeal, affirming the judgment and decree of dismissal of the suit. Hence, the present Second Appeal has been preferred by the plaintiffs.
6. Learned counsel for the appellant submits that the findings recorded suffer from perversity and are based on misappreciation of evidence on record. It is contended that the finding that there was no prior partition between the parties is contrary to the material on record, which indicates long-standing separate cultivation and enjoyment of respective portions, rendering the findings on Issue Nos. 1 and 2 illegal and unsustainable. It is further submitted that the declaration of shares to the extent of 3/4th in favour of respondent Nos. 1 to 7 is not supported by cogent evidence and is contrary to the factual position of separate possession. It is also urged that the plea of earlier partition has not been properly appreciated and, in view of long-standing separate enjoyment, the parties are estopped from asserting otherwise, making the finding on Issue No. 5 perverse. Lastly, it is submitted that the counterclaim seeking declaration of 3/4th share has been wrongly rejected, as the same is supported by pleadings and evidence, and its rejection suffers from non-application of mind and misreading of material on record.



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 jurisdiction of this Court under Section 100 of the Code of Civil Procedure is confined to the examination of substantial questions of law. Interference with concurrent findings of fact recorded by the learned Trial Court and affirmed by the learned First Appellate Court is permissible only where such findings are shown to be perverse, based on no evidence or suffering from an error of law.
9. On careful scrutiny of the record, it is evident that the consistent finding recorded is that the suit property is of ancestral and joint family nature, originally belonging to the common ancestors of the parties. It has further been found that the property continued to remain in joint possession and cultivation of the different branches of the family without any legally proved partition by metes and bounds. The oral and documentary evidence, including revenue entries and admissions made in cross-examination, consistently indicate joint enjoyment of the suit land by the parties.
10. The plea set up that there had been a prior partition whereby specific portions of the suit land had fallen exclusively to the share of the plaintiffs has not been substantiated by any reliable or legally admissible evidence. No document of partition, no mutation based on partition, and



no cogent material reflecting exclusive allotment of specific khasra numbers or defined shares has been proved on record. On the contrary, the evidence supports the conclusion that the property remained undivided ancestral property.

11. The revenue records produced in evidence, as well as subsequent mutations effected from time to time in favour of different branches, further reinforce the conclusion that the property was treated as joint family property. The conduct of the parties in permitting such entries to continue without timely objection also supports the inference of joint possession rather than exclusive ownership.
12. The findings recorded are based on proper appreciation of oral and documentary evidence and are purely findings of fact. The nature of property, existence or non-existence of partition, and the manner of possession are all factual determinations which have been consistently answered against the plaintiffs. Such concurrent factual findings do not warrant interference in second appeal unless shown to be perverse or vitiated by a substantial error of law.
13. The arguments advanced on behalf of the appellant essentially seek re-appreciation of evidence and substitution of this Court's view for that concurrently taken by both the Courts, which is impermissible in a Second Appeal.
14. It is well settled, as reiterated by the Supreme Court in *State of Rajasthan and Others v. Shiv Dayal and Another*, (2019) 8 SCC 637, that interference in second appeal with concurrent findings of fact is permissible only when such findings are shown to be based on



misreading of material evidence, contrary to pleadings, or such as no reasonable judicial mind could have arrived at. The appellant has failed to demonstrate that the findings recorded by the Trial Court and the First Appellate Court suffer from any such infirmity.

15. Very recently the Supreme Court in the matter of ***Russi Fisheries Pvt. Ltd. Vs. Bhavna Seth & Ors. in C.A. No. 109/2010 decided on 09.04.2026*** has held thus at paras 31 to 35 :-

“31. It is settled in law that the findings of fact howsoever erroneous, cannot be reopened and disturbed in second appeal which is required to be adjudicated only upon the substantial question of law, if any, arising therein. Thus, the argument that the High Court in second appeal ought to have examined the evidence to ensure the correctness of the findings of the First Appellate Court has no legs to stand and fails.

32. Long back in 1981, three judges of this Court in the case of Bholaram Vs. Ammerchand had ruled that even if findings of facts by courts below are wrong or grossly inexcusable that by itself would not entitle the High Court to interfere under Section 100 CPC in the absence of clear error of law. A similar view was reiterated in Madhavan Nair vs. Bhaskar Pillai (Dead) by Lrs., wherein it has been laid down that even if the First Appellate Court commits an error in recording a finding of fact, that itself will not be a ground for the High Court to upset the same.

33. In Kashibai w/o Lachiram and Another vs. Parwatibai w/o Lachiram and others, a similar proposition of law was laid down by this Court and it was held that the High Court cannot reappreciate the evidence and interfere with the findings of facts unless a substantial question of law or a question of law duly formulated is to be decided.



The second appeal does not lie on the ground of erroneous findings of facts based on appreciation of the relevant evidence.

34. *Similar is the situation in the case at hand. The High Court has not found any substantial question of law or a question of law worth consideration in the second appeal and, therefore, there was no occasion for it to have reappreciated the evidence so as to come to a different conclusion.*

35. *Again, in Kulwant Kaur & Ors. Vs. Gurdial Singh Mann (dead) by Lrs & Ors., it was emphasized that the fact remains that in a second appeal, a finding of fact, even if erroneous, will not be disturbed unless it is found that it stands vitiated for want of perversity. No such case for interference has been made out in the present case. “*

16. The submissions advanced on behalf of the appellants essentially require reappreciation of evidence and substitution of a different factual view, which is impermissible within the limited jurisdiction under Section 100 of the Code of Civil Procedure. No perversity, misreading of evidence, or material irregularity in the approach of the findings has been demonstrated. Accordingly, no substantial question of law arises for consideration in the present appeal.
17. In view of the foregoing discussion, this Court finds no merit in the present Second Appeal in absence of any substantial question of law. Accordingly the Second Appeal is dismissed at the admission stage itself. No order as to costs.

Sd/-
(Bibhu Datta Guru)
Judge