



2026:CGHC:9206

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPURJudgment reserved on: 20/02/2026Judgment delivered on: 23/02/2026**SA No. 279 of 2020**

Dhaneshwar Vaishnav S/o Late Devadas Vaishnav, Aged About 30 Years R/o Village Godhi (S), Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.

Appellant(s)**versus**

1 - Smt. Geeta Bai Wd/o Ramlakhan @ Lakhanlal Vaishnav, Aged About 50 Years Guru Nanak Ward, Behind Durga Rice Mill, Bhatapara, Tahsil Bhatapara, District Balodabazar Bhatapara Chhattisgarh.

2 - Uttara Bai D/o Ramlakhan @ Lakhanlal Vaishnav, Aged About 27 Years W/o Ashok Vaishnav, S/o Kunjbihari Vaishnav, R/o Village Kundru, P.O. Baikunth, Tahsil Tilda, District Raipur Chhattisgarh.

3 - State Of Chhattisgarh Through Collector, Balodabazar District Balodabazar Bhatapara Chhattisgarh.

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

For Appellant(s) : Mr. H.B. Agrawal, Senior Advocate along with Ms. Asha Nirmalkar, Advocate

For State : Mr. Santosh Soni, Govt. Advocate



Hon'ble Shri Bibhu Datta Guru, J

C A V Judgment

1. By the present Second Appeal under Section 100 of the Code of Civil Procedure, 1908, the appellant/defendant challenges the impugned judgment and decree dated 06/02/2020 passed by the learned Additional District Judge, Bhatapara, District Balodabazar (C.G.) in Civil Appeal No. 14-A/2015 (Dhaneshwar Vaishnav v. Smt. Geeta Bai & Others), arising out of the judgment and decree dated 10/07/2015 passed by the learned Civil Judge, Class-I, Bhatapara (C.G.) in Civil Suit No. 23A/2014 (Smt. Geeta Bai & Others v. Dhaneshwar Vaishnav), whereby the learned First Appellate Court dismissed the appeal filed by the defendant and affirmed the judgment and decree passed by the Trial Court.
2. For the sake of convenience, the parties shall hereinafter be referred to as per their status before the learned Trial Court.
3. (a) The facts of the case are that the plaintiffs instituted a civil suit seeking declaration, partition, possession and permanent injunction in respect of agricultural land situated at Village Godhi (S), Patwari Halka No. 13/30, R.I.M. Nipania, Tahsil Bhatapara, District Raipur, bearing Khasra Nos. 26, 780, 943 etc., total area 1.301 hectares (hereinafter referred to as the “suit land”). The plaintiffs further sought a declaration that the registered sale deed dated 06.06.1990 executed in favour of Defendant No. 1 is null and void and not binding upon them.



(b) It is the case of the plaintiffs that the husband of Plaintiff No. 1, Late Lakhanlal Vaishnav, and the father of Defendant No. 1, Devaram Vaishnav, were real brothers. The suit land is pleaded to be the ancestral property of Late Lakhanlal Vaishnav. It is alleged that although Lakhanlal Vaishnav had expired on 02.07.1985, Devaram Vaishnav, with an intention to grab the suit land, fraudulently got a sale deed dated 06.06.1990 registered in favour of Defendant No. 1 by setting up an impersonator in place of the deceased Lakhanlal Vaishnav.

(c) According to the plaintiffs, the said sale deed is void ab initio as it was executed after the death of Lakhanlal Vaishnav and is the result of fraud and impersonation. The plaintiffs have pleaded that they first acquired knowledge of the said sale deed on 04.08.2009 when Plaintiff No.1 inspected the records in the office of the Sub-Registrar and thereafter obtained certified copies of the relevant documents. Hence, the present suit was filed seeking declaration of their 1/2 share in the suit land, partition by metes and bounds, delivery of possession, and permanent injunction against Defendant No. 1.

(d) Defendant No. 1 filed a written statement denying the allegations made in the plaint. It has been contended that the sale deed dated 06.06.1990 was lawfully executed and registered and that the defendant is the sole owner and title holder of the suit land on the basis of the said registered sale deed. The defendant has further pleaded that he has been in continuous, peaceful and uninterrupted possession of the suit land for the last 20–22 years and has been cultivating the same. The defendant has denied that the plaintiffs have any right, title or share in the suit land



and has also disputed the alleged date of knowledge as pleaded by the plaintiffs. By way of counter-claim, Defendant No. 1 prayed that he be declared the sole owner and title holder of the suit land on the strength of the registered sale deed dated 06.06.1990.

4. The Trial Court, after appreciating the pleadings of the parties and the oral as well as documentary evidence available on record, framed six issues and decreed the suit in favour of the plaintiffs holding that the sale deed dated 06.06.1990 (Ex.D/7) was forged, fabricated and void, as Late Lakhanlal Vaishnav had already expired in the year 1985 and, therefore, could not have executed the said document. It was further held that the mutation and revenue entries made in favour of Defendant No. 1 on the basis of the said sale deed were illegal and conferred no valid title, and that the plea of adverse possession was not established. The Trial Court also held that the plaintiffs, being the legal heirs of Late Lakhanlal Vaishnav, were entitled to 1/2 share in the suit land and that the suit was within limitation, having been filed within the prescribed period from the date of knowledge. Accordingly, a decree was passed declaring the sale deed dated 06.06.1990 null and void and not binding upon the plaintiffs, declaring the plaintiffs' 1/2 share in the suit land, and holding them entitled to partition and separate possession of their share through the Collector or any duly authorized Gazetted Officer, in accordance with law, with costs.
5. Aggrieved by the said judgment and decree, the defendant preferred a first appeal before the learned Appellate Court, which came to be



dismissed. Hence, the present Second Appeal has been preferred by the defendant, giving rise to substantial questions of law for consideration.

6. Learned counsel for the appellant submits that the impugned judgments and decrees passed by the learned Trial Court and affirmed by the learned First Appellate Court are contrary to law and evidence on record and suffer from serious legal infirmities. It is contended that the finding that the suit was within limitation is erroneous, inasmuch as the registered sale deed dated 06.06.1990 was executed more than twenty years prior to the institution of the suit and the appellant's name had been duly mutated in the revenue records on the basis thereof; therefore, the suit filed in the year 2011 was clearly barred by limitation. It is further submitted that the learned Courts have failed to properly appreciate that the appellant and, prior to him, his predecessor had been in long, continuous, peaceful and uninterrupted possession of the suit land since the execution of the sale deed, openly and to the knowledge of the plaintiffs, and thus, even assuming without admitting that the plaintiffs had any title, the same stood extinguished and the appellant had perfected his title by adverse possession. Learned counsel also contends that the finding declaring the sale deed dated 06.06.1990 as forged is perverse and unsustainable, as the document is a registered instrument carrying a statutory presumption of validity and the plaintiffs failed to adduce cogent evidence, such as expert evidence, to establish forgery or impersonation. On these grounds, it is urged that the substantial questions of law arise as to whether the suit was barred by limitation, whether the appellant has perfected title by adverse



possession, and whether the finding holding the sale deed dated 06.06.1990 to be forged is legally sustainable.

7. I have heard learned counsel for the appellant at length and have carefully perused the pleadings, oral and documentary evidence as well as the judgments and decrees passed by the Courts below.
8. The present second appeal has been preferred under Section 100 of the CPC, which circumscribes the jurisdiction of this Court only to substantial questions of law. The First Appellate Court on due consideration of the material available on record, dismissed the first appeal and affirmed the judgment and decree passed by the learned trial Court. Therefore, interference in second appeal is permissible only if the findings recorded by the First Appellate Court are shown to be perverse, contrary to law, or based on misreading or non-consideration of material evidence.
9. So far as the question of limitation is concerned, both the learned Trial Court and the learned First Appellate Court have concurrently recorded a finding that the plaintiffs acquired knowledge of the sale deed dated 06.06.1990 only on 04.08.2009 upon inspection of the records in the office of the Sub-Registrar, and the suit instituted in the year 2011 was within the prescribed period. The finding is based on appreciation of oral and documentary evidence and does not suffer from perversity or misapplication of law. The appellant has failed to demonstrate that the said finding is contrary to any statutory provision or settled principle governing limitation.



10. With regard to the plea of adverse possession, it is evident from the record that the appellant's claim of possession is founded upon the sale deed dated 06.06.1990. Once the said document has been held to be void, the nature of possession cannot be termed as hostile to the true owner so as to mature into title by adverse possession. Moreover, the essential ingredients of adverse possession namely, open, continuous, hostile and uninterrupted possession to the knowledge of the true owner for the statutory period have not been established by cogent evidence. The concurrent findings rejecting the plea of adverse possession are pure findings of fact and do not give rise to any substantial question of law.
11. As regards the validity of the sale deed dated 06.06.1990, both the Courts have recorded a categorical finding that Late Lakhanlal Vaishnav had expired in the year 1985 and, therefore, could not have executed the sale deed in the year 1990. This finding is supported by documentary evidence, including revenue records and the death certificate. Once it stands proved that the executant was not alive on the date of execution, the document is void ab initio. The contention that absence of expert evidence vitiates the finding is of no consequence in view of the established fact of prior death. The concurrent findings on this aspect are neither perverse nor based on no evidence.
12. It is well settled that in exercise of jurisdiction under Section 100 of the Code of Civil Procedure, this Court does not interfere with concurrent findings of fact unless such findings are shown to be perverse or based on misreading of evidence or substantial error of law. The appellant has failed to demonstrate any such infirmity.



13. This Court finds that the appellants are seeking re-appreciation of evidence and substitution of concurrent findings of fact, which is impermissible in second appeal under Section 100 CPC unless perversity or substantial question of law is demonstrated. No perversity, illegality or jurisdictional error has been shown in the impugned judgments.
14. In ***State of Rajasthan and others v. Shiv Dayal and another, reported in (2019) 8 SCC 637***, the Supreme Court, while reiterating the settled proposition of law, has held that when concurrent findings of fact are assailed in a Second Appeal, interference is permissible only if the appellants is able to demonstrate that such findings are vitiated in law, having been recorded de hors the pleadings, based on misreading of material documentary evidence, recorded in contravention of any statutory provision, or are such which no judicially acting court could reasonably have arrived at.
15. Be that as it may, the arguments advanced by the learned counsel for the appellants and the questions sought to be projected cannot be regarded as satisfying the test of a “substantial question of law” within the meaning of Section 100 of the Code of Civil Procedure, 1908. The issues raised are essentially questions of fact, already concurrently decided by both the courts upon due appreciation of evidence. The appellants have failed to demonstrate the existence of any substantial question of law warranting interference by this Court.
16. Upon careful examination of the impugned judgment, this Court finds that the findings recorded by the First Appellate Court as well as the trial Court are purely findings of fact, based on evidence available on record, and do



not give rise to any substantial question of law. The grounds urged by the appellants essentially seek re-appreciation of evidence, which is impermissible in a Second Appeal as no substantial question of law is made out.

17. In view of the foregoing discussion, this Court is of the considered opinion that the appellants have failed to make out any case warranting interference under Section 100 CPC.
18. Accordingly, the appeal filed by Defendant is hereby **dismissed** at the admission stage itself. The judgment and decree dated 10/07/2015 passed by the trial Court, as affirmed in appeal by the first appellate Court, is hereby upheld.

Sd/-
(Bibhu Datta Guru)
Judge

Rahul/Gowri