



2026:CGHC:10274



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NAFR

## HIGH COURT OF CHHATTISGARH AT BILASPUR

### SA No. 93 of 2021

Ramjatan S/o Ramkhelawan, Aged About 75 Years R/o Bhandi,  
Tahsil - Baikunthpur District - Korla Chhattisgarh., District : Koriya  
(Baikunthpur), Chhattisgarh

**... Appellant**

**versus**

**1** - Karmato Bai D/o Ramkhelawan, Aged About 68 Years R/o  
Bhandi, Tahsil - Baikunthpur District - Korla Chhattisgarh., District :  
Koriya (Baikunthpur), Chhattisgarh

**2** - The State Of Chhattisgarh Through Collector District Korla At  
Baikunthpur Chhattisgarh., District : Koriya (Baikunthpur),  
Chhattisgarh

**... Respondent(s)**

***(Cause title taken from CIS)***

|                      |                                         |
|----------------------|-----------------------------------------|
| For Appellant        | : Shri Rahul Mishra, Advocate           |
| For Respondent No. 1 | : Shri S.P. Sannat, Advocate            |
| For Respondent/State | : Shri Anand Gupta, Dy. Govt. Advocate. |

**Hon'ble Shri Bibhu Datta Guru, Judge**

**Judgment on Board**



**27.02.2026**

1. By the present appeal under Section 100 of the CPC, the appellant/defendant challenging the impugned judgment and decree dated 26.03.2021 passed by the Additional District Judge, Baikunthpur, District: Korias (C.G.) in Civil Suit No. 05A/2020 (Ramjatan vs. Karmato Bai and Others) arising out of the judgment and decree dated 28.12.2019 passed by the learned Civil Judge, Class- II, Baikunthpur, District Korias (C.G.) in Civil Suit No. 259A/2014 (Karmato Bai vs Ramjatan and Others). For the sake of convenience, the parties would be referred as per their status before the learned trial Court.
2. The plaintiff has instituted the present suit seeking declaration of title and permanent injunction in respect of land situated at Village Bhadi, Tehsil Baikunthpur, District Korea, bearing Khasra Nos. 116/1, 132, 153, and 309/1, admeasuring 1.246, 0.101, 0.202, and 0.357 hectares respectively (hereinafter referred to as the "suit property"). It is an admitted fact that the suit property forms part of total Khasra No. 5, admeasuring 9.66 hectares, which was the self-acquired property of Late Ramkhelawan. The plaintiff and Defendant



No. 1 are brother and sister and belong to the Panika community.

3. The case of the plaintiff, in brief, is that Late Ramkhelawan Panika was the recorded owner of lands bearing Khasra Nos. 103, 116, 119, 153, and 309, admeasuring 0.63, 3.23, 1.17, 0.50, and 4.11 hectares respectively, totaling 9.66 hectares. The said lands were his self-acquired property, developed and made cultivable through his own labour and resources. Upon his death, his widow Budhni, the plaintiff, and Defendant No. 1 succeeded to the property and remained in possession thereof. At the time of her father's death, the plaintiff was a minor, and Defendant No. 1 allegedly ensured that her name was not recorded in the revenue records.
4. It is further alleged that after selling his own share, Defendant No. 1 attempted to alienate the suit property as well, which came to the knowledge of the plaintiff. Upon inquiry, Defendant No. 1 allegedly threatened the plaintiff and her son with dire consequences. Consequently, the plaintiff filed an application dated 21.12.2010 under Sections 115 and 116 of the Chhattisgarh Land Revenue Code before the Tehsildar, Baikunthpur. The Tehsildar, by order dated 28.12.2010,



granted a stay against alienation of the suit property. Despite the said stay order, Defendant No. 1 allegedly continued attempts to sell the property. Hence, the suit was filed seeking declaration of title, permanent injunction, and recovery of possession.

5. The Defendant No. 1 filed written statement denying the averments of the plaint and contended that prior to 1977, the parties belonged to the Scheduled Tribe category and that partition of the property had already taken place before 1977. It is further pleaded that, as per the customary law applicable to their community at the time of their father's death, daughters had no right in the father's property. Therefore, the plaintiff is stated to have no right, title, or interest in the suit property.
6. After appreciating the evidence available on record and after framing the issues, the learned trial Court by the judgment and decree dated 28.12.2019 allowed the suit of the plaintiff/respondent herein holding that the parties were not Scheduled Tribe members in Sarguja, hence they were governed by the Hindu Succession Act, 1956, not by tribal custom. It ruled that the plaintiff (daughter) was entitled to



1/3rd share in her father's self-acquired property and the defendant (brother) to 2/3rd share. The suit was also held to be within limitation, as the cause of action arose in 2010 when her title was challenged. Accordingly, declaration and permanent injunction were granted in favour of the plaintiff to the extent of her 1/3rd share. Thereagainst, the Civil Appeal preferred by the defendant has been dismissed vide the impugned judgment and decree by the learned First Appellate Court. Thus, this appeal.

7. Learned counsel for the appellant submits that both the Courts erred in applying the Hindu Succession Act, 1956 to the parties, ignoring the caste custom under which a married daughter had no right to inherit. Learned counsel would submit that as per planitiff the partition took place between the family member prior to death of there father and accordingly, the parties were having possession over their respective shares, however, both the Courts disbelieved the same saying that no document was ever produced about the said partition. Learned counsel would submits that once there is a partition between the parties, which has been accepted by the plaintiff in her evidence again she is not



entitled for any share in the suit property. Learned counsel would submit that in fact the appellant provided the accommodation to his sister/plaintiff because her husband was in judicial custody on account of imposition of conviction of life imprisonment. Learned counsel would submit that the plaintiff was never in possession of the suit property and on the basis of false and fabricated facts she has instituted the civil suit.

8. It is further contended that the plaintiff had no entitlement to the suit property under prevailing custom and that the suit, having been filed after several decades from mutation and possession of the defendant, is clearly barred by limitation. Hence, the impugned judgments and decrees are liable to be set aside.
9. I have heard learned counsel for the appellant/defendant, perused the material available on record.
10. Upon consideration of the entire record and the concurrent findings recorded by the trial Court as well as first Appellate Court, this Court finds no illegality or perversity in the impugned judgments. The First Appellate Court has rightly affirmed the well-reasoned judgment and decree of the Trial Court. Both the Courts have correctly appreciated the constitutional provisions relating to Scheduled Tribes and have properly held that the



parties were not governed by tribal custom but by the Hindu Succession Act, 1956. The determination of the plaintiff's entitlement to 1/3rd share in the self-acquired property of her father, on the basis of notional partition and the operation of Sections 14 and 15 of the Act, is legally sound and based on proper appreciation of evidence. The finding that the suit was within limitation, the cause of action having arisen in 2010 when the plaintiff's title was challenged, is also justified in law. No substantial question of law arises warranting interference. Accordingly, the Appellate Court has rightly affirmed the decree passed by the Trial Court, and the same calls for no interference by this Court.

11. 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.
12. 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.

13. 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.
14. 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.
15. 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.
16. 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 appellants failed to raise any substantial question of law which is required under Section 100 of the CPC in. 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 First Appellate Court are just and proper and there is no illegality and infirmity at all.

17. Accordingly, the present appeal is liable to be and is hereby **dismissed.**

Sd/-

**(Bibhu Datta Guru)**  
**Judge**

Shoaib/Gowri