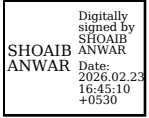




2026:CGHC:9223

NAFR



HIGH COURT OF CHHATTISGARH AT BILASPUR

SA No. 320 of 2018

- 1** - Bhagat Singh S/o Ramprasad, Aged About 47 Years R/o Village Dullapur, Tahsil Podi Uproda, District Korba Chhattisgarh., District : Korba, Chhattisgarh
- 2** - Ray Singh S/o Ramprasad, Aged About 44 Years R/o Village Dullapur, Tahsil Podi Uproda, District Korba Chhattisgarh., District : Korba, Chhattisgarh
- 3** - Jagat Singh, S/o Ramprasad, Aged About 40 Years R/o Village Dullapur, Tahsil Podi Uproda, District Korba Chhattisgarh., District : Korba, Chhattisgarh
- 4** - Angad Singh S/o Ramprasad, Aged About 35 Years R/o Village Dullapur, Tahsil Podi Uproda, District Korba Chhattisgarh., District : Korba, Chhattisgarh
- 5** - Harichand Singh S/o Sonsay, Aged About 31 Years R/o Village Dullapur, Tahsil Podi Uproda, District Korba Chhattisgarh., District : Korba, Chhattisgarh

... Appellants

versus

1 - Bifaiya Bai W/o Sonsay, Aged About 48 Years R/o Village Dullapur, Tahsil Podi Uproda, District Korba Chhattisgarh., District : Korba, Chhattisgarh

2 - Mohan Singh S/o Sonsay, Aged About 25 Years R/o Village Dullapur, Tahsil Podi Uproda, District Korba Chhattisgarh., District : Korba, Chhattisgarh

3 - Kripal Singh S/o Jhunnulal, Aged About 24 Years R/o Village Pendri, Tahsil Khadganwa, District Baikunthpur Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

4 - Ranjeet Singh S/o Jhunnulal, Aged About 20 Years R/o Village Pendri, Tahsil Khadganwa, District Baikunthpur Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

5 - Indra Kunwar W/o Jhunnulal, Aged About 50 Years R/o Village Pendri, Tahsil Khadganwa, District Baikunthpur Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

6 - Kanti Singh D/o Jhunnulal, W/o Sher Singh R/o Village Dagaura, Tahsil Manendragarh, District Korba Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

7 - Uchit Singh S/o Pancham Gond, R/o Village Amka (Chhuri), Post

Amka, Thana Khadganwa, Tahsil Manendragarh, District Koria Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

8 - Son Kunwar W/o Sonsay, Aged About 46 Years R/o Village Baima, Thana Khadganwa, Tahsil Manendragarh, District Koria (Chhattisgarh)., District : Koriya (Baikunthpur), Chhattisgarh

9 - Bed Kunwar D/o Pancham, W/o Sagar Gond, Aged About 42 Years R/o Village Kadam Bahra, Thana Khadganwa, Tahsil Manendragarh, District Koria Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

10 - Tekram S/o Pancham Gond Aged About 34 Years R/o Village Amka(Chhuri), Post Amka, Thana Khadganwa, Tahsil Manendragarh, District Koria Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

11 - Ramkali D/o Pancham Gond Aged About 32 Years R/o Village Amka (Chhuri), Post Amka, Thana Khadganwa, Tahsil Manendragarh, District Koria Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

12 - Punaram S/o Bhaiya Lal Gond, Aged About 28 Years R/o Village Sakriya, Thana Khadganwa, Tahsil Manendragarh, District Koria Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

13 - Jay Kunwar D/o Bhaiya Lal, W/o Baarelal Aged About 24 Years R/o Village Sakriya, Thana Khadganwa, Tahsil Manendragarh,

District Korba Chhattisgarh., District : Korba (Baikunthpur), Chhattisgarh

14 - Sarita D/o Bhaiya Lal Gond, Aged About 22 Years R/o Village Sakriya, Thana Khadganwa, Tahsil Manendragarh, District Korba Chhattisgarh., District : Korba (Baikunthpur), Chhattisgarh

15 - Jugman Bai W/o Udraj Singh, Aged About 47 Years R/o Village Pali, Thana Chauki Korbi, tahsil Podi Uproda, District Korba Chhattisgarh., District : Korba, Chhattisgarh

16 - Itwaro Bai W/o Gulab Singh, Aged About 43 Years R/o Village Atari, tahsil Podi Uproda, District Korba Chhattisgarh., District : Korba, Chhattisgarh

17 - Sumar Say S/o Beersay, Aged About 40 Years R/o Village Pali, Chauki Korbi, Tahsil Podi Uproda, District Korba Chhattisgarh., District : Korba, Chhattisgarh

18 - Mangli Bai W/o Jwala Prasad, Aged About 37 Years R/o Village Dullapur, Tahsil Podi Uproda, District Korba Chhattisgarh., District : Korba, Chhattisgarh

19 - Shukwaro Bai W/o Ram Singh (Gautu) Gond, Aged About 35 Years R/o Village Korbi, Tahsil Podi Uproda, District Korba Chhattisgarh., District : Korba, Chhattisgarh

20 - Lakhram S/o Beersay Gond, Aged About 33 Years R/o Village

Pali, Tahsil Podi Uroda, District Korba Chhattisgarh., District : Korba, Chhattisgarh

21 - Mutiyaro Bai S/o Devsay Gond, Aged About 30 Years R/o Village Pipariya, Chauki Korbi, Tahsil Podi Uroda, District Korba Chhattisgarh., District : Korba, Chhattisgarh

22 - Ram Singh S/o Samay Lal Gond, Aged About 25 Years R/o Village Parasgarhi, Tahsil Manendragarh, District Korba Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

23 - Chandrawati D/o Samay Lal Gond, Aged About 22 Years R/o Village Parasgarhi, Tahsil Manendragarh, District Korba Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

24 - Buntu Ram S/o Bodhan @ Gudul, Aged About 35 Years R/o Village Pendri, Tahsil Khadganwa, District Baikunthpur Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

25 - Pendarhin W/o Dev Singh, S/o Bodhan Singh, Aged About 30 Years R/o Village Dagaura Muhalla Bhaur, Tahsil Manendragarh, District Korba (Chhattisgarh), District : Koriya (Baikunthpur), Chhattisgarh

26 - Fulsiya D/o Bhaiya Lal, W/o Seeyaram Gond, Aged About 26 Years R/o Village Bade Saalhi, Thana Khadganwa, Tahsil Manendragarh, District Korba Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

27 - State Of Chhattisgarh, Through Collector Korba District Korba Chhattisgarh., District : Korba, Chhattisgarh

... Respondent(s)

(Cause title taken from CIS)

For Appellants :Shri Vikash Pandey, Advocate.

For Respondent/State :Shri Lekhram Dhruv, Panel Lawyer.

Hon'ble Shri Bibhu Datta Guru, Judge

Judgment on Board

23.02.2026

1. By the present appeal under Section 100 of the CPC, the appellants/plaintiffs challenging the impugned judgment and decree dated 13.02.2018 passed by the Learned Additional District Judge, Katghora, District: Korba (C.G.) in Civil Appeal No. 1A/2014 (*Bhagat Singh & Others vs. Kripal Singh & Others*) arising out of the judgment and decree dated 31.07.2012 passed by the learned Civil Judge, Class- II, Katghora, District Korba (C.G.) in Civil Suit No. 72A/2003 (*Bhagat Singh & Others vs. Kripal Singh & Others*). For the sake of convenience, the parties would be referred as per their status before the learned trial Court.

2. The present suit has been instituted by the plaintiff seeking a declaration of title in respect of the land situated at Village Dullapur, P.H. No. 03, R.I. Circle Pasan, Tehsil Katghora, District Korba (Chhattisgarh), comprising Khasra Nos. 47/3, 73/4, 372/7 and 372/8, admeasuring 5.00, 0.68, 2.00 and 0.25 acres respectively (hereinafter collectively referred to as the "suit land").
3. It is an admitted fact in the present case that the suit land stands recorded in the revenue records jointly in the names of the plaintiff Fagnibai and the defendants Boondkunwar, Jamnibai, Amritbai and Kunwariya. The said land originally belonged to and was under the ownership and possession of their father, Jaglal God. Jaglal had no male issue and was survived only by his daughters, namely the plaintiff and the defendants. After their respective marriages, the defendants resided in their matrimonial homes. Upon the death of Jaglal, the funeral rites were performed by the plaintiff and the defendants.
4. The case of the plaintiff, in brief, is that since Jaglal had no son, after the marriage of the plaintiff Fagnibai, she and her husband were retained by Jaglal as ghar jamai (resident son-

in-law), and they continued to reside in Jaglal's house during his lifetime while taking care of him. All the children of Fagnibai were born in Jaglal's house. Upon the death of Jaglal, the entire expenses of the funeral ceremonies were borne exclusively by the plaintiff. It is pleaded that in the year 1988, the defendants Boondkunwar, Jamnibai, Amritbai and Kunwariya expressed their intention to relinquish their rights over the suit land, and in consideration thereof, the plaintiff delivered movable properties, cattle and money to the defendants. Since then, the plaintiff has been in continuous, peaceful and exclusive possession of the suit land, asserting herself as its absolute owner without any interference. On this basis, it is contended that the plaintiff has perfected her title by way of adverse possession.

5. It is further pleaded that on 13.12.1993, the defendants executed a deed of relinquishment in respect of the earlier renunciation of their rights. The cause of action arose when the defendants filed an application before the Tehsildar seeking partition of the holding, and notice thereof was received by the plaintiff in July 2003. On these grounds, the

plaintiff has prayed for a declaration that she is the sole and exclusive owner of the entire suit land.

6. The defendants, while admitting the previously stated admitted facts, have denied all other averments in the plaint. They contend that the suit land is ancestral property jointly belonging to both the plaintiff and the defendants. According to them, the care of their father Jaglal was undertaken by all daughters from time to time, and the funeral rites and related expenses were jointly performed and equally borne. It is further pleaded that after Jaglal's death, both parties continued in joint possession of the suit land. The defendants deny execution of any relinquishment deed and assert that the alleged deed is false and fabricated, created to deprive them of their lawful share. They also stated that the plaintiff resided with her husband and never lived with Jaglal either during his lifetime or thereafter.
7. After appreciating the evidence available on record and after framing the issues, the learned trial Court by the judgment and decree dated 31.07.2012 dismissed the suit of the plaintiffs holding that that the suit land devolved jointly upon the plaintiff and the defendants as co-sharers after the death

of Jaglal. The alleged relinquishment deed dated 13.12.1993, being unregistered, did not confer any valid title upon the plaintiff. The plea of adverse possession was also rejected, as possession of one co-sharer is deemed to be joint possession in the absence of proof of ouster. Thereagainst, the Civil Appeal preferred by the plaintiffs has also been dismissed vide the impugned judgment and decree by the learned First Appellate Court. Thus, this appeal.

8. Learned counsel for the appellant submits that the learned Trial Court as well as the learned First Appellate Court have committed grave errors in law and on facts while deciding the suit and the appeal. It is contended that both the Courts have misread and misappreciated the oral and documentary evidence available on record, thereby recording findings which are perverse and unsustainable. It is further submitted that Exhibit P/2, the relinquishment deed dated 13.12.1993, has been erroneously disbelieved despite sufficient evidence proving its execution, and that the continuous and exclusive possession of the appellant over the suit land has not been properly appreciated. On these grounds, it is urged that the impugned judgment and decree passed by the learned Trial

Court and affirmed by the learned First Appellate Court are contrary to law and evidence on record and deserve to be set aside.

9. I have heard learned counsel for the appellants, perused the material available on record.
10. Upon hearing learned counsel for the parties and perusing the record, this Court finds that both the learned Trial Court and the learned First Appellate Court have meticulously appreciated the oral as well as documentary evidence on record. The concurrent finding recorded is that the suit land devolved jointly upon the plaintiff and the defendants after the death of Jaglal and that the alleged relinquishment deed (Ex. P/2), though proved in execution, being an unregistered document, did not create or transfer any right, title or interest in respect of the immovable property. The trial Court as well as first appellate Court have rightly held that relinquishment of rights in immovable property requires compulsory registration and, in its absence, no exclusive title could accrue to the plaintiff. Further, the plea of adverse possession has also been correctly rejected, as the possession of a co-sharer is presumed to be on behalf of all co-sharers unless clear and

unequivocal evidence of ouster is established, which is absent in the present case. The findings recorded are purely findings of fact based on proper appreciation of evidence and do not suffer from perversity or illegality.

11. The Supreme Court in the matter of Yellapu Uma Maheswari And Anr. Vs. Buddha Jagadheeswar Rao & Ors. Reported in (2015) 16 SCC 787 held thus at para13 :-

13. Section 17 (1) (b) of the Registration Act mandates that any document which has the effect of creating and taking away the rights in respect of an immovable property must be registered and Section 49 of the Act imposes bar on the admissibility of an unregistered document and deals with the documents that are required to be registered under Section 17 of the Act.

12. 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.

13. 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 appellants/plaintiffs failed to establish their case by placing cogent and sufficient material. The appellants have failed to demonstrate any perversity, illegality, or misapplication of law in the findings so recorded.
14. 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.
15. 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.
16. 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.

17. 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.

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

Sd/-

(Bibhu Datta Guru)
Judge