



2026:CGHC:18982

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

SA No. 299 of 2018

Bharatlal Navrang S/o Dukhiya Aged About 60 Years R/o Village Derhakapa, Dakapur, Tahsil Lormi, District Mungeli, Chhattisgarh (Defendant), District : Mungeli, Chhattisgarh

... Appellant

versus

1 - Rajni Mathur D/o Late Anand Das Aged About 38 Years R/o Rajendra Nagar, Raipur, District Raipur, Chhattisgarh (Asha Mathur) (Died And Deleted) (As Per Hon'ble Court Order Dated 15-04-2026)

2 - Ranjana Bhaskar D/o Late Anand Das Aged About 40 Years R/o Rajendra Nagar, Raipur, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

3 - State Of Chhattisgarh Through Collector, Mungeli, District Mungeli, Chhattisgarh (Plaintiffs), District : Mungeli, Chhattisgarh

--- Respondents

For Appellant : Mr. Pallav Mishra, Advocate.
 For Respondent 1&2 : Ms Kavita Bansal, Advocate
 For Respondent/State : Mr. Santosh Soni, G.A.

Hon'ble Shri Bibhu Datta Guru, Judge
Judgment on Board

24.04.2026

1. By the present appeal under Section 100 of the CPC, the appellant/defendant No.1 challenging the impugned judgment and decree dated 05/04/2018 passed by the



learned Additional Judge to the Court of Additional District Judge, Mungeli, C.G. in Civil Appeal No.22A/2016 (Bharatlal Navrang Vs. Rajni Mathur & Ors) arising out of the judgment and decree dated 24/09/2013 passed by the learned Civil Judge Class-II, Lormi, District Bilaspur, C.G. in Civil Suit No.42A/2009 (Ananddas & Anr Vs. Bharatlal Navrang & Anr). For the sake of convenience, the parties would be referred as per their status before the learned trial Court.

2. (a) The original plaintiff No.1 Anand Das and his mother Kunwariya Bai (plaintiff No.2) preferred a suit for permanent injunction with respect to the suit land, mentioned in Schedule A, annexed with the plaint, i.e. total area 8.00 acre situated at village Kestarpur, P.H. No. 14, Tahsil Lormi District Mungeli, pleading *inter alia* that the said suit land was inherited by the plaintiffs in the year 1997–98 after the death of their father and husband, Late Sukhdev. The disputed land is recorded in the revenue records in the names of the plaintiffs as landowners, and they are in possession and cultivation of the same. On 02.07.1997, the plaintiffs agreed to sell the disputed land for a consideration of ₹2,71,000, and received ₹1,20,000 as earnest money from Defendant No. 1. The remaining amount was agreed to be paid by Defendant No. 1 in the first week of May 1998. In this regard, Plaintiff No. 1 executed an agreement in the presence of witnesses. Plaintiff No. 2 did not execute any



receipt in favor of Defendant No. 1 on 08.07.1997. The alleged receipt is forged and fabricated, not duly stamped or registered, and therefore inadmissible in evidence.

(b) As per the agreement dated 02.07.1997, it was agreed between the parties that upon receipt of the balance consideration, the plaintiffs would execute a registered sale deed of the land and hand over possession to the defendant at that time. However, despite the lapse of the agreed period (first week of May 1998), Defendant No. 1 failed to get the sale deed registered. The plaintiffs repeatedly requested Defendant No. 1 verbally, but he continued to delay the matter. Thereafter, the plaintiffs sent a legal notice through their advocate on 27.05.2002, calling upon Defendant No. 1 to perform his part of the contract. Despite receipt of the notice, the defendant deliberately failed to fulfill his contractual obligations. The plaintiffs continue to remain in possession and cultivation of the disputed land. With the intention of causing harm to the plaintiffs, Defendant No. 1 has been spreading false claims that he has purchased the land and has been threatening that if any person attempts to purchase the land, he will dispossess them and take possession, and will also prevent the plaintiffs from cultivating the land.

3. The original defendant No.1 in his written statement denied



all the plaint averments and submitted that the defendant No. 1 has been in continuous possession and cultivation of the disputed land in accordance with the agreement dated 02.07.1997. On the same date, the plaintiffs handed over possession of the land to the defendant at the site. Kunwariya Bai, executed a possession receipt on 08.07.1997 in the presence of witnesses. The disputed land is recorded not only in the name of Plaintiff Anand Das but also in the names of Kunwariya Bai and Shyamlal. The plaintiffs did not inform the defendant that a revenue case regarding Khasra No. 14/1, area 0.89 acres, mentioned in the agreement, was pending before the Revenue Court and the said case was decided on 09.03.2005 by the Sub-Divisional Officer, and an appeal is pending before the Revenue Board, Bilaspur. In such circumstances, the question of execution of a registered sale deed by the plaintiffs does not arise. Plaintiff No. 1 had assured that the registered sale deed would be executed only after the disposal of the case pending before the Sub-Divisional Officer.

4. The learned Trial Court, after framing the issues and upon due consideration of the oral and documentary evidence adduced by both parties, as well as the material available on record, partly allowed the suit filed by the plaintiffs. The Court observed that with respect to Khasra No. 14/1, area



0.89 acres, a revenue case relating to transfer was pending between Plaintiff Ananddas and Vyas Narayan. In this regard, from the certified copy of the order dated 09.03.2005 passed in Appeal Case No. 28-A-6/2002-03 (Vyas Narayan vs. Anand Das) before the Sub-Divisional Officer (Revenue), Lormi, produced by the plaintiff himself, it is clear that the appeal filed by Vyas Narayan against the order dated 20.10.2002 passed by the Naib Tehsildar, Lormi in Revenue Case No. 11-75/2002-03 was allowed. The impugned order of the Tehsildar, Lormi was set aside, and it was ordered that the disputed land bearing Khasra No. 14/1, area 0.89 acres, be restored and recorded in the name of Vyas Narayan. Thus, in accordance with the said order of the competent appellate authority, the plaintiffs are no longer the recorded landowners of the disputed land bearing Khasra No. 14/1, area 0.89 acres. It is also evident from the material on record that the said order has attained finality. In this manner, the plaintiffs are the recorded landowners of the disputed lands bearing Khasra Nos. 14/5, 14/6, and 16/3, and the plaintiffs along with Shyamlal are the recorded landowners of Khasra Nos. 15/1 and 61/3. The plaintiffs inherited the said property after the death of Sukhdev. Apart from the plaintiffs, Shyamlal is also a landowner as a legal heir of Sukhdev. The relevant revenue records produced by the plaintiffs also show their possession over the disputed



land. The burden of disproving this presumption lies on the person who claims otherwise. Defendant has not produced any cogent evidence to prove his possession over the disputed land in pursuance of the agreement. Therefore, the evidence produced by the plaintiffs is reliable and establishes their possession over the disputed lands bearing Khasra Nos. 14/5, 14/6, 16/3, 15/1, and 61/3. The Court further observed that the defendant, contrary to the claim of the plaintiffs, asserts his possession over the disputed land. However, upon examination, the possession of the plaintiffs over the disputed land has been found to be proved.

5. Against the said judgment and decree, the original defendant No.1 filed the Civil Appeal along with an application under Order 41 Rule 27 of the CPC before the learned First Appellate Court who by the judgment and decree impugned, dismissed the application Order 41 Rule 27 of CPC and also dismissed the Civil Appeal by maintaining the judgment and decree passed by the learned trial Court. Thus, this appeal by the defendant No.1.
6. Learned counsel for the appellant submits that both the learned trial Court as well as the First Appellate Court have committed grave error in law and on facts in decreeing the suit of the plaintiff, as the findings recorded are perverse and contrary to the evidence available on record. Learned



counsel submits that both the Courts failed to appreciate that defendant No. 1 is entitled to protection under Section 53-A of the Transfer of Property Act, as he was put in possession of the suit property in pursuance of a valid agreement to sell dated 02.07.1997 and has always been ready and willing to perform his part of the contract, thereby creating an equitable shield against dispossession. Learned counsel further submits that the suit is also barred by limitation and the plaintiffs have not properly valued the suit for the purposes of Court fees and jurisdiction, thereby rendering the suit defective.

7. I have heard learned counsel for the appellants, perused the material available on record.
8. In the case at hand, the original plaintiff No.1 Anand Das (P.W.1) has produced the agreement dated 02.07.1997 (Exhibit P/1), B-1 Kishtbandi Khatauni for the year 2003–04 (Exhibits P/2 to P/7), Khasra records for the year 2003–04 (Exhibits P/8 to P/10), Certified copy of the order dated 09.03.2005 passed by the Sub-Divisional Officer, Lormi in Appeal Case No. 281/2006/2002-03 (Exhibit P/11).
9. Plaintiff No.1 Ananddas, in paragraph 8 of his cross-examination, denied the suggestion that he had handed over possession of the land to defendant Bharatlal on the same date on which the agreement was executed. He



further denied the suggestion that his mother had delivered possession of the land to Bharatlal and had executed a receipt in that regard. However, defendant in his cross-examination, stated that he had never taken any steps to have his possession recorded in the revenue records of the disputed land. In paragraph 9, the defendant admitted that he had not produced any revenue records to establish his possession over the disputed land.

10. From the evidence presented by the plaintiffs and the defendants, as well as from the cross-examinations and upon perusal of the agreement (Exhibit P/1) and the Kishtbandi Khatauni (Exhibits P/2 to P/4), it is clearly established that, as per the agreement (Exhibit P/1), possession of the suit land was not handed over by the deceased plaintiff Anand Das to Defendant No. 1 (the appellant). It is further evident from the cross-examination of Defendant No. 1 and the defense witnesses that in revenue records, whenever any person is in possession of land, the name of the person in possession is mentioned in the remarks (kafiyat) column. The revenue records, including the B-1 Kishtbandi Khatauni and Khasra entries for the year 2003–04, duly support the plaintiffs' claim and carry a presumption of correctness, which the defendants have failed to rebut with any cogent or reliable evidence. The plaintiffs, being legal heirs of Sukhdev, have lawfully



inherited the suit lands, and their possession is duly reflected in the revenue records.

11. As far as the submission of learned counsel for the appellant with regard to non acceptance of certain documents by the learned First Appellate Court is concerned, such permission cannot be granted as a matter of course, nor can additional evidence be introduced at the whim or convenience of a litigating party. It is noteworthy to mention here that once trial had concluded and the decree was under challenged in an appeal, the appellants cannot be permitted to fill the gaps in their case by seeking to adduce further material to fortify the claim that was fundamentally flawed. (See: **Gobind Singh and Ors. v Union of India and Ors. (Civil Appeal Nos.5168-5169 of 2011 decided on 9-3-2026)**).
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 appellant/s



failed to establish its 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.

14. The submissions advanced on behalf of the appellants essentially require re-appreciation 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.
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. 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 (1981) 2 SCC 414** 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. (2005) 10 SCC 553**, 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 (1995) 6 SCC 213**, a similar proposition of law was laid down by this Court and it was held that the High Court cannot reappraise 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 reappraised the evidence so as to come to a different conclusion.

35. Again, in **Kulwant Kaur & Ors. Vs. Gurdial Singh Mann (dead) by Lrs & Ors. AIR (2001) SC 1273**, 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.

17. 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.

18. Be that as it may, the argument advanced by learned counsel for the appellants 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 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.

19. Accordingly, the present appeal is liable to be and is hereby

dismissed.

Sd/-

(Bibhu Datta Guru)
Judge

Gowri/
Amardeep