



2026:CGHC:13657

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

SA No. 343 of 2022

Shivshankar Sahu S/o Banjar Prasad Sahu Aged About 41 Years
R/o Village- Manipur, Police Out Post- Manipur, Post, P.S. And
Tahsil- Ambikapur, District- Surguja, Chhattisgarh

--- **Appellant(s)**

versus

1. Ghasnin Bai W/o Late Basant Panika Aged About 67 Years R/o
Village- Machadoli, P.S.- Bango, Tahsil- Katghora, District- Korba,
Chhattisgarh

2. Urmila Manikpuri D/o Late Basant Panika Aged About 42 Years
R/o Village- Machadoli, P.S.- Bango, Tahsil- Katghora, District-
Korba, Chhattisgarh

3. Smt. Guddi Bai W/o Shri Mannu Das Aged About 41 Years R/o
Sundarpur (Lodhima), Post, P.S. And Tahsil- Ambikapur, District-
Surguja, Chhattisgarh

4. The State Of Chhattisgarh Through Collector, Surguja At
Ambikapur, District Surguja, Chhattisgarh

5. Smt. Munni Bai W/o Aasan Kumar Chouhan Aged About 45
Years R/o Benai, Post- Girhuldhih, P.S. And Tahsil- Sitapur, district-
Surguja, Chhattisgarh

6. Smt. Prabha Mishra W/o Shri Mukesh Kumar Mishra Aged About
37 Years R/o Main Road, Lakhanpur, Post, P.S. And Tahsil-
Lakhanpur, District- Surguja, Chhattisgarh

7. Arun Gupta S/o Jagarnath Gupta Aged About 45 Years R/o
Mandirpara, Ward No. 06, Sundarpur, P.S. And Tahsil- Ambikapur,
District- Surguja, Chhattisgarh

--- **Respondent(s)**

SA No. 297 of 2022

Smt. Guddi Bai W/o Mannu Das, Aged About 41 Years R/o Village Sundarpur, Ambikapur, P.S. And Tahsil Ambikapur, District : Surguja (Ambikapur), Chhattisgarh

---Appellant(s)

Versus

1. Ghasnin Bai W/o Late Basant Panika, Aged About 67 Years R/o Village Machadoli, P.S. Bango Tahsil Katghora, District : Korba, Chhattisgarh

2. Urmila Manikpuri D/o Late Baant Panika, Aged About 42 Years R/o Village Machadoli, P.S. Bango Tahsil Katghora, District : Korba, Chhattisgarh

3. The State Of Chhattisgarh Through Collector Surguja At Ambikapur, District : Surguja (Ambikapur), Chhattisgarh

--- Respondent(s)

For Appellant(s)	:	Mr. Rishikant Mahobia, Advocate and Md. Ruhul Ameen, Advocate along with Mr. Anurag Agrawal.
For State	:	Mr. Lekhram Dhruv, P.L.

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

23.03.2026

1. Since both the appeals arise out of common judgment and decree, they are considered and decided by this common judgment.
2. S.A. No. 297 of 2022 preferred by the Defendant No.1 Smt. Guddi Bai/ appellant whereas S.A. No. 343 of 2022 preferred by the subsequent purchasers, namely Shivshankar Sahu/

appellant under Section 100 of the Code of Civil Procedure, 1908 (for brevity CPC) against the common judgment & decree dated 23.03.2022 passed by the Learned 3rd Additional District Judge, Ambikapur Dist. Surguja C.G. in Civil Appeal No. 34A/2021 (*Smt. Guddi Bai Vs. Ghasnin Bai & Ors.*) and Civil Appeal No. 39A/2021 (Shivshankar Sahu & Ors. Vs. Smt. Ghasnin Bai and Ors.) affirming the judgment and decree dated 06.07.2021 passed by the Trial Court in Civil Suit No. 182A/2015 (*Ghasnin Bai & Anr. Vs. Smt. Guddi Bai & Anr.*) whereby the learned trial Judge has allowed the suit of the plaintiff/ respondent. For the sake of convenience, the parties would be referred as per their status before the learned trial Court.

3. The plaintiffs preferred the suit for declaration of title over Khasra No. 352 area 0.121 hect. described in Appendix-A and for declaration of sale deed dated 12.01.2015 executed in favour of defendant No. 1 as null, void and unlawful pleading inter alia that they were having ancestral property bearing khasra No.352/1 area of 0.272 hectares situated at Village Sundarpur, Ambikapur, Police Station and Tehsil Ambikapur, District Surguja (C.G.). During the settlement proceedings, the said land was recorded in the name of Karuha Panika, son of Sampat Das Panika. After the death of the said recorded holder, the land came to be recorded in the

name of his legal heir i.e. Basant Panika, who was the husband of Plaintiff No.1 and the father of Plaintiff No.2. Thus, the said property is the ancestral property of the plaintiffs. Basant Panika died on 31.07.2015 at Village Sundarpur, Tehsil Ambikapur, District Surguja (C.G.). It is further pleaded that the husband of Defendant No.1, namely Mannudas, is a clever and fraudulent person who, by misleading Basant Panika, got a sale deed executed on 12.01.2015, in respect of land bearing khasra No.352/1 area of 0.121 hectares (henceforth 'the suit land') in favour of Defendant No.1 in respect of the suit land, showing a sale consideration of Rs.1,70,000/-. However, in reality no sale consideration was ever paid either to the plaintiffs or to Basant Panika. The said sale deed was executed only as a paper transaction without any consideration and is therefore void from the very beginning. It is further stated that the suit land was not the self-acquired property of Basant Panika but was ancestral property; therefore, Basant Panika had no right to alienate the same. The Defendant No.1, without following the proper legal procedure for mutation, got her name recorded in the revenue records through the Patwari on the basis of the said illegal and void sale deed. The plaintiffs came to know about the said sale deed and the illegal entry in the revenue records only in July 2015 after the death of Basant Panika, when they approached the Patwari for recording the death entry. Upon

obtaining copies of the revenue documents in September 2015, the plaintiffs came to know for the first time that Defendant No.1 had fraudulently got the sale deed dated 12.01.2015 registered and had also clandestinely got her name mutated in the revenue records. Hence, the plaintiffs have filed the present suit seeking declaration that the sale deed dated 12.01.2015 executed in favour of Defendant No.1 is null and void and not binding on them, and for declaration of their title over the suit land described in Schedule "A".

4. Defendant No.1 filed the written statement contending that the suit land was originally recorded in the name of Karuha Panika during the settlement proceedings and after his death it was recorded in the name of his son, Basant Panika, in the revenue records. It is denied that the suit land is the ancestral property of Plaintiff No.2. It is further pleaded that Plaintiff No.1 is not the legally wedded wife of late Basant Panika and Plaintiff No.2 is not his daughter. According to the defendant, Birajo Bai is the first legally wedded wife of Basant Panika and the plaintiffs have never resided with Basant Panika in Village Sundarpur; rather they are residents of Village Machadoli, District Korba. It is also pleaded that Birajo Bai, being the legal heir of Basant Panika, has not been impleaded as a party and therefore the suit is liable to be dismissed for non-joinder of necessary party. The defendant

further stated that during his lifetime Basant Panika, being the recorded owner of the land, executed a registered sale deed dated 12.01.2015 in respect of land bearing Khasra No. 352 admeasuring 0.121 hectare in favour of Defendant No.1 before the Sub-Registrar, Ambikapur, in the presence of witnesses after receiving full sale consideration of Rs.1,70,000/-. Since then Defendant No.1 is in possession of the suit land and her name has been duly recorded in the revenue records. It is also contended that as the plaintiffs are not the legal heirs of Basant Panika, they had no right to the sale consideration and no notice to them was required. The defendant also raised objections regarding jurisdiction of the Court and insufficiency of court fees, and prayed for dismissal of the suit.

5. The learned Trial Court, after framing the necessary issues, held that the Court had the pecuniary jurisdiction to entertain the suit and that the plaintiffs had properly valued the suit and paid the requisite court fee. The objection raised by the defendant regarding non-joinder of necessary party was also rejected on the ground that the defendant failed to produce any cogent evidence to establish that Birajo Bai was the legally wedded wife of late Basant Panika or that she had any subsisting interest in the suit property. On merits, the Trial Court found that the suit property originally belonged to

Karuha Panika and, after his death, devolved upon his legal heirs including Basant Panika. The Court held that Basant Panika was not the exclusive owner of the entire suit property and, therefore, had no authority to transfer the whole property without the consent of the other co-sharers. The defendant failed to prove that Basant Panika had absolute title over the property or that the other legal heirs had consented to the execution of the sale deed.

6. Accordingly, the Trial Court decreed the suit in favour of the plaintiffs, declaring that the plaintiffs are entitled to the suit land bearing Khasra No. 352 admeasuring 0.121 hectare situated at Village Sundarpur, Ambikapur, District Surguja, and further declared that the sale deed dated 12.01.2015 executed in favour of Defendant No.1 is null and void and liable to be cancelled.
7. At this juncture, it is noteworthy to mention here that just before filing the suit and during pendency of the suit, the defendant No.1 sold the suit land to the appellant namely; Shivshankar Sahu in SA No.343 of 2022 by three registered sale deeds dated 23.7.2015, 28.11.2025 and 15.1.2016 in respect of land admeasuinrg 0.121 hectares (0.040 + 0.040 + 0.041).
8. In the meanwhile, aggrieved by the judgment and decree dated 06.07.2021, the defendant No. 1 preferred a First

Appeal under Section 96 of the Code of Civil Procedure before the learned First Appellate Court. In the said appeal, the subsequent purchasers moved an application under Order 1 Rule 10 of the CPC for impleading them as necessary party, however, when the same has been rejected by the appellate Court they too filed separate appeal under Section 96 of the CPC bearing CA No.39-A/2021. Both the appeals were clubbed and heard. The learned First Appellate Court, on re-appreciation of the entire evidence on record, affirmed the findings recorded by the Trial Court and dismissed both the appeals preferred by defendant No.1 Guddi Bai as also the subsequent purchasers by the common impugned judgment. Hence, the present appeals by the defendant No.1 Guddi Bai and the subsequent purchaser Shivshankar Sahu.

9. Learned counsel for the appellant/defendant No.1 Guddi Bai submits that the impugned judgments passed by the Courts below are contrary to law and facts of the case. It is contended that late Basant Panika was competent to sell his share in the suit property and had validly executed the sale deed dated 12.01.2015 in favour of Defendant No.1. It is further submitted that even if the property is treated as joint property, a co-sharer can transfer his undivided share, therefore the sale deed could not have been declared wholly null and void. The plaintiffs also failed to prove any fraud in

the transaction; hence the findings of the Courts below are erroneous and give rise to substantial questions of law.

10. While adopting the aforesaid arguments advanced by defendant No.1, the subsequent purchaser would submit that the appellants, being subsequent purchasers through registered sale deeds dated 23.07.2015, 28.11.2015 and 15.01.2016 executed by Defendant No.1, were not impleaded as parties in the suit and therefore the judgment and decree dated 06.07.2021 is not binding upon them. Hence, once the sale deed dated 12.01.2015 is valid, the subsequent sale deeds would also be valid and the findings recorded by the Courts below are erroneous, giving rise to substantial questions of law in the present appeal.
11. I have heard learned counsel for the appellants on the question of admission, and the impugned judgments and decrees passed by the learned trial Court as also the learned First Appellate Court have been carefully examined.
12. Upon bare persual of the impugned judgment and decree, it is evident that the learned First Appellate Court appreciated the points for determination regarding the nature of the suit property; the authority of late Basant Panika to transfer the land; the allegation of fraud in execution of the sale deed in favour of defendant No.1 Guddi Bai; and whether the judgment and decree passed by the Trial Court required

interference. Upon re-appreciation of the evidence on record, the Court held that the suit property was ancestral property which had originally been settled in the name of Karuha Panika and thereafter devolved upon Basant Panika by inheritance. It was further held that plaintiff Urmila Bai, being the daughter of Basant Panika, was entitled to a share in the said ancestral property and her right would not be extinguished merely because she had been residing separately from her father since childhood.

13. The First Appellate Court further observed that although a co-sharer is legally competent to transfer his share in joint property, the evidence on record showed that Basant Panika had already alienated substantial portions of the inherited land to several persons during his lifetime and had transferred land in excess of his share. It has been observed by the learned First Appellate court that out of total 5.84 acres ancestral property, 3.66 acres was sold by Basant Panika, however, out of the rest part 2.18 acres, though sale deed alleged to be executed in favour of defendant No. 1 Guddi Bai selling 30 decimal of land but no consent of the plaintiffs were obtained. Even there is no proof of partition between them. In such circumstances, the registered sale deed dated 12.01.2015 executed in favour of defendant No.1 Guddi Bai did not confer any valid title upon her. The Court also held

that the plaintiffs had failed to establish that the said sale deed was obtained by fraud or misrepresentation; however, since the transfer itself was beyond the authority of Basant Panika, no right accrued to Guddi Bai on the basis of the said transaction. The Court further found that Guddi Bai had subsequently transferred the land in favour of Shivshankar Sahu through registered sale deeds dated 23.07.2015, 28.11.2015 and 15.01.2016 in different portions, some of which were executed during the pendency of the suit. In view of the transfer having been made during the pendency of the litigation, the subsequent purchasers were held to be bound by the result of the suit and could not claim any independent title on the basis of those transactions. Consequently, it was held that the subsequent sale deeds also did not confer any valid right or title upon the purchasers. On the basis of the aforesaid analysis, the First Appellate Court concluded that the Trial Court had rightly decreed the suit and had not committed any error either on facts or in law. The impugned judgment and decree are just and proper and there is no illegality or irregularity at all.

14. 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.

15. 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/defendant 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.
16. 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.
17. 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.
18. 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.

19. 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 appellants herein. The judgments impugned passed by the learned trial Court as as well as by the learned First Appellate Court are just and proper and there is no illegality and infirmity at all.
20. Having heard learned counsel for the appellants and on perusal of the record of the case and in view of the above settled legal proposition, I find absolutely no merit in this appeal, involving no question of law much less substantial question of law within the meaning of Section 100 of the CPC. In my view, the judgment and decree passed by both the Courts appear to be just, proper and legal. The findings recorded are based on proper appreciation of evidence

available on record and there is no illegality or perversity in the same and they does not call for any interference.

21. As an upshot, both the Second Appeals filed by defendant No.1 Guddi Bai and the subsequent purchaser Shivshankar Sahu fail and are hereby **dismissed** in *limine* resulting in upholding of the judgment and decree of the trial Court as well as the Appellate Court. Consequently, the judgment and decree dated 06.07.2021 passed by the Trial Court in Civil Suit No.182-A/2015 are hereby affirmed.

SD/-

(Bibhu Datta Guru)
Judge

Jyoti