



2026:CGHC:4068

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

SA No. 698 of 2017

Singhal Distributors Pvt. Ltd. Through Its Director, Shri Shubhash Chandra Agrawal, Aged About 58 Years, S/o Shri Niranjana Lal Agrawal, R/o Vandana Building, M.G.Road, Raipur, Chhattisgarh.....Defendant No.2.

... Appellant

versus

1 - Subhashish Shaha S/o Late S.M.Shaha, Aged About 48 Years R/o Fafadih, Raipur, Chhattisgarh, Police Station Ganj Police Station, District Raipur, Chhattisgarh

2 - Smt. Shushmita Shaha W/o Shri Devashish Shaha, Aged About 45 Years R/o Fafadih, Raipur, Chhattisgarh, Police Station Ganj Police Station, District Raipur, Chhattisgarh

3 - Ku. Shalakha Shaha D/o Late Devashish Shaha, Aged About 22 Years R/o Fafadih, Raipur, Chhattisgarh, Police Station Ganj Police Station, District Raipur, Chhattisgarh.

4 - Ku. Vishakha Shaha D/o Late Devashish Shaha, Aged About 21

Years R/o Fafadih, Raipur, Chhattisgarh, Police Station Ganj Police Station, District Raipur, Chhattisgarh.

5 - Saurabh Shaha S/o Late Devashish Shaha, Aged About 19 Years R/o Fafadih, Raipur, Chhattisgarh, Police Station Ganj Police Station, District Raipur, ChhattisgarhPlaintiffs.

6 - Satpal Singh Bhatia S/o Shri Balwant Singh Bhatia, Aged About 36 Years R/o Pandri, Raipur, ChhattisgarhDefendant No.1.

7 - State Of Chhattisgarh, Through The Collector, Raipur, ChhattisgarhDefendant No.3.

.... Respondent(s)

(Cause title is taken from CIS)

For Appellant(s)	: Mr. Ankur Agrawal, Advocate
For Respondent/State	: Mr. Lekhram Dhruw, Panel Lawyer

Hon'ble Shri Justice Bibhu Datta Guru

Judgment on Board

23/01/2026

1. The present Second Appeal has been filed under Section 100 of the Code of Civil Procedure, 1908, assailing the impugned judgment and decree dated 19.09.2017 passed by the learned 9th Additional District Judge, Raipur, (C.G.) in Civil Appeal No. 48-A/2015, affirming the judgment and decree dated 17.04.2015 passed by the learned 14th Civil Judge Class-II, Raipur (C.G.), in Civil Suit No. 59-A/2013, whereby the civil appeal filed by the appellant/ defendant No.2 was dismissed. The present appeal has been preferred by the defendant No.2. For the sake of convenience, the parties shall hereinafter be referred to as per

their status before the Trial Court.

2. The plaintiffs/ respondents No.1 to 5 herein filed the suit seeking declaration of title pleading, inter alia, that they, being members of a joint Hindu family, purchased Plot Nos. 11, 12 and 13 admeasuring a total area of 8250 sq. ft., being part of Khasra No. 409/2, through registered sale deeds dated 12.08.2004 from defendant No.1 and were put in peaceful possession thereof. It is pleaded that the plaintiffs and their predecessors-in-interest continued in open, continuous and uninterrupted possession of the suit land as co-owners. After execution of the said sale deeds, defendant No.1 ceased to have any right, title or interest in the suit property. Notwithstanding the same, defendant No.1 purported to execute a subsequent sale deed dated 11.04.2005 in favour of defendant No.2 in respect of the very same land. It is specifically averred that on the date of the subsequent transaction, defendant No.1 lacked competence and authority to convey any title. The plaintiffs therefore contended that the said sale deed does not create any legal right in favour of defendant No.2 and is void, illegal and inoperative against their lawful title and possession, leading to the institution of the suit seeking declaration and permanent injunction.
3. The defendant No.2, in his written statement, denied the plaintiffs' claim of purchase of Plot Nos. 11, 12 and 13, forming part of Khasra No. 409/2, through sale deeds dated 12.08.2004, and contended that no government record or revenue document was

produced to identify or demarcate the alleged plots. It was pleaded that Khasra No. 409/2 is of a much larger area and the suit land has not been properly identified. Defendant No.2 asserted that he had lawfully purchased various lands, including those situated at village Baronda, by a registered sale deed dated 11.04.2005 from the original owner and was delivered possession thereof. It was further contended that a public notice was issued prior to the purchase, to which no objection was raised by the plaintiffs, and that the plaintiffs or their predecessors were never recorded in the revenue records. Hence, the defendant No.2 denied the plaintiffs' right to challenge the sale deed in his favour and prayed for dismissal of the suit.

4. The defendants No.1 & 3 remained ex parte before the trial Court.
5. After framing the issues and upon due appreciation of the oral as well as documentary evidence available on record, the learned Trial Court allowed the suit filed by the plaintiffs, holding that the plaintiffs have established their title and possession over the suit land. Aggrieved by the said judgment and decree dated 17/04/2015, the defendant No.2 preferred a First Appeal under Section 96 of the Code of Civil Procedure before the learned First Appellate Court. The learned First Appellate Court, on re-appreciation of the entire evidence on record, affirmed the findings recorded by the Trial Court and dismissed the appeal by the impugned judgment. Hence, the present appeal.

6. Learned counsel for the appellant/defendant No.2 contended that the plaintiffs have neither established possession nor demonstrated lawful title over the suit land, and that the suit is further vitiated by the non-joinder of necessary parties. He submits that both the Courts erred in allowing the suit by relying upon the evidence of plaintiff in spite of the fact that the identification of plots which were sold to the plaintiff were not specifically pleaded in the plaint, in order to establish ownership over the 8250 sq. ft. of land of Khasra No. 409/2. According to the appellant, the plaintiffs' claim is based on factually incorrect premises, and in the absence of proper identification of the suit land in the revenue records, the impugned judgments suffer from substantial infirmity.
7. I have heard learned counsel for the appellant/defendant No.2 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.
8. As far as the declaration of title over the land bearing Khasra No.409/2 area admeasuring 8250 sq. ft. purchased by the plaintiffs from the defendant No.1 is concerned, learned both the Courts have declared the title of plaintiffs over the land in question i.e. 8250 sq. ft. bearing Khasra No.409/2 purchased by the plaintiffs from the defendant No.1 on 12/08/2004 on the basis of registered sale deed, which was executed by defendant No.1. The execution of sale deed dated 12/08/2004 by the defendant No.1 to

the plaintiffs has not been rebutted. However in spite of execution of sale deed by the defendant No.1 in favour of the plaintiffs, on 12/08/2004, again the entire part of the land of the same Khasra has been subsequently sold by the defendant No.1 to defendant No.2 by a sale deed dated 11/04/2005. Though the defendant No.1 was not empowered to sell 8250 sq. ft. which was already sold to the plaintiffs. And as such mere non-mentioning of plot number in the pleading, the finding of fact recorded by both the Courts cannot be interfered by this Court in an appeal preferred under Section 100 of CPC.

9. 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.
10. 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 No.2 failed to establish his 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.
11. 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.

12. 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.
13. 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.
14. 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 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 well as by the learned First Appellate Court are just and proper and there is no illegality and infirmity at all.

15. Having heard learned counsel for the parties 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 do not call for any interference.
16. Consequently, the Second Appeal fails and is hereby **dismissed** *in limine* resulting in upholding of the judgment and decree of the trial Court as well as the Appellate Court.

Sd/-
(Bibhu Datta Guru)
Judge