



2026:CGHC:17811

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**SA No. 480 of 2019**

Chandu Bhai Chawla S/o Karam Singh Bhai Aged About 90 Years R/o Opposite Old Power House, Main Road, Torwa, Bilaspur, Tahsil And District Bilaspur Chhattisgarh.

Appellant(s)**Versus**

1 - G L Shivarao S/o Late Narsingh Rao Aged About 66 Years R/o Sinhanchalya Vishkhapatnam Andhra Pradesh.

2 - G. Shrinivas Rao S/o Late Nar Singh Rao Aged About 64 Years R/o Devcharoda, Bhilai District Durg Chhattisgarh.

3 - G. Uttam S/o Late Narsingh Rao Aged About 52 Years R/o Khandgiri Urisa, Orissa

4 - G. Prabhakar Rao S/o Late Nar Singh Rao Aged About 59 Years R/o Old Power House Torwa, Bilaspur District Bilaspur Chhattisgarh.

5 - G. Jagdishwar Rao S/o Late Narsingh Rao Aged About 54 Years R/o Old Power House, Torwa, Bilaspur, District Bilaspur, Chhattisgarh.

6 - G. Sanjeev S/o Late Bal Krishna Aged About 40 Years R/o Jagmal Chowk, Bilaspur, District Bilaspur Chhattisgarh.

Respondent(s)**(Cause-title taken from Case Information System)**

For Appellant(s) : Mr. A.D. Kuldeep, Advocate

For Respondent(s) : Mr. J.K. Gupta, Advocate

Hon'ble Shri Justice Bibhu Datta Guru
Judgment on Board

20/04/2026

1. The present Second Appeal has been preferred under Section 100 of the



Code of Civil Procedure, 1908 by the defendant, who is the appellant herein, challenging the judgment and decree dated 28/02/2019 passed in Civil Appeal No. 59-A/2018 (*G.L. Shivarao & Others v. Chandu Bhai Chawla*) by the learned V Additional District Judge, Bilaspur (District Bilaspur). By the said judgment, the First Appellate Court partly allowed the appeal preferred by the plaintiffs/respondents and modified the judgment and decree dated 05/01/2018 passed in Civil Suit No. 227A/2014 by the II Additional Civil Judge to the Court of I Civil Judge, Class-I, whereby the suit filed by the plaintiffs had been partly decreed.

2. For the sake of convenience, the parties shall hereinafter be referred to as per their status before the Trial Court.
3. (a) The plaintiffs instituted a civil suit against the defendant seeking removal of construction raised by the defendant over a portion of land admeasuring 48 square feet out of total land measuring 34×84 square feet situated at Old Power House Main Road, and for delivery of possession thereof to the plaintiffs, along with grant of permanent and temporary injunction against the defendant.

(b) It is the case of the plaintiffs, in brief, that the suit land bearing Khasra No. 769/2, Sheet No. 08, admeasuring 34×84 square feet, situated near Old Power House Main Road, is owned and possessed by them. Out of the said land, the plaintiffs have constructed a pucca house admeasuring 30×32 square feet, and have left a strip of land measuring 4 feet in width and 84 feet in length on the eastern side for the purpose of access to the rear portion of the house and for maintenance and repair of the walls.



(c) It is further pleaded that the said land was purchased by the plaintiffs from Smt. Shukwara Bai, widow of late Kamta, resident of Torwa, by a registered sale deed dated 12.06.1968, and since then the plaintiffs are in possession thereof. Initially, a tiled house was constructed over the land, which was subsequently demolished and replaced by a RCC house in the year 1986. It is further the case of the plaintiffs that, at the relevant time, the land situated on the eastern side belonged to one Dr. Verma, along with a house constructed thereon. The said land was subsequently purchased by one Mehboob, and thereafter the present defendant purchased the said adjoining land from the said Mehboob. It is pleaded that after purchasing the land, the defendant started a timber business and began stacking wood adjoining the plaintiffs' house. Due to such storage of wood in close proximity, particularly during the rainy season when the wood would get wet, excessive dampness was caused inside the plaintiffs' house, resulting in damage to the walls, including peeling of plaster. It is further pleaded that the act of dumping wood also caused disturbance and inconvenience to the plaintiffs. It is further pleaded that the defendant has illegally encroached upon the plaintiffs' land measuring 4 feet in width and has raised construction over a portion measuring 12×4 square feet by constructing a room thereon, and has also encroached upon an additional area measuring 20×4 square feet, and is threatening to raise further construction.

(d) It is further pleaded that the said strip of land was intentionally left open by the plaintiffs for access and maintenance purposes, and the defendant has taken undue advantage of the same. On these grounds, the



plaintiffs have prayed for removal of the construction raised over the land measuring 12×4 square feet, recovery of possession, removal of wood kept thereon, and grant of permanent and mandatory injunction.

(e) The defendant filed his written statement denying the averments made in the plaint. It is contended that the defendant has not made any encroachment over the plaintiffs' land and is in lawful possession of his own land. It is further contended that the defendant purchased the land from Syed Mehboob Ali by a registered sale deed in the year 1995 and is in peaceful possession thereof since then. It is further contended that the construction raised by the defendant is lawful and that no objection was raised by the plaintiffs at the time of construction. The documents filed by the plaintiffs have also been denied. It is further pleaded that the suit has been filed only to harass the defendant and to grab his land. On these grounds, the defendant has prayed for dismissal of the suit.

4. On the basis of the pleadings, the learned Trial Court framed Issue Nos. 1, 2 and 3 for adjudication and, upon appreciation of the oral and documentary evidence, held that the plaintiffs have established their title and possession over the suit land. The Trial Court relied upon the documents filed by the plaintiffs, particularly the registered sale deed (Ex. P-2), revenue records (Ex. P-3), and the spot inspection report and panchnama (Exs. P-5 and P-6), which reflected their possession over the suit property. The Trial Court further found, on the basis of the inspection report (Ex. P-5) and the admission of the defendant's witness, that the defendant was in possession of land in excess of the area purchased by him. On such evidence, it was concluded that the



defendant had encroached upon the plaintiffs' land and had raised construction over an area measuring 4×12 square feet (48 square feet). Accordingly, Issue Nos. 1, 2 and 3 were decided in favour of the plaintiffs. Consequently, the suit was partly decreed directing the defendant to hand over possession of the encroached land measuring 4×12 square feet to the plaintiffs, to remove the structure erected thereon, and restraining him permanently from interfering with the plaintiffs' possession.

5. Aggrieved by the judgment and decree passed by the learned Trial Court, the plaintiffs preferred a first appeal. The learned First Appellate Court, upon consideration of the record, partly allowed the appeal. It was observed that though the Trial Court had recorded a finding that the defendant had encroached upon the plaintiffs' land measuring 4×12 square feet, it failed to grant complete relief by directing removal of the construction raised thereon. The First Appellate Court, therefore, modified the decree and directed the defendant to remove the construction raised over the encroached portion measuring 4×12 square feet and to hand over vacant possession thereof to the plaintiffs within a stipulated period. However, the other reliefs claimed by the plaintiffs were not granted, as no specific issue had been framed nor any objection raised in that regard before the Trial Court. Accordingly, the appeal was partly allowed. Hence, this appeal by the defendant.
6. Learned counsel for the appellant submits that the judgments and decrees passed by the learned Trial Court and affirmed with modification by the learned First Appellate Court are illegal, perverse and contrary to the



evidence available on record. It is contended that both the Courts have erred in proper appreciation of the pleadings and evidence, and have wrongly recorded findings regarding encroachment and entitlement of the plaintiffs to possession of the suit land. It is further submitted that the finding of encroachment is unsustainable in the absence of any proper and reliable demarcation of the suit land. According to the learned counsel, no legally admissible or conclusive demarcation report has been brought on record to establish the exact location and extent of the alleged encroachment, and in absence thereof, the decree for possession could not have been granted. It is also contended that the evidence adduced by the plaintiffs suffers from material inconsistencies, which have not been duly considered, while the evidence led on behalf of the defendant has not been properly appreciated. It is urged that the findings recorded are based on misreading of evidence and selective consideration of material on record. It is further submitted that the learned First Appellate Court, while modifying the decree, has failed to independently re-appreciate the evidence in its proper perspective and has not adequately addressed the deficiencies in the findings recorded by the learned Trial Court. On these grounds, it is submitted that the impugned judgments and decrees suffer from perversity and legal infirmity, thereby giving rise to substantial questions of law for consideration in the present appeal.

7. I have heard learned counsel for the appellant on the question of admission and have carefully perused the impugned judgments and decrees passed by both the Courts as well as the material available on



record.

8. At the outset, it is to be noted that the jurisdiction of this Court under Section 100 of the Code of Civil Procedure is confined to the examination of substantial questions of law. Interference with concurrent findings of fact recorded by the learned Trial Court and affirmed by the learned First Appellate Court is permissible only where such findings are shown to be perverse, based on no evidence or suffering from an error of law.
9. Upon due consideration of the material available on record, it is apparent that the title and possession of the plaintiffs over the suit land have been established on the basis of documentary evidence, particularly the registered sale deed and the revenue records. The spot inspection report (Ex. P/5) and panchnama further support the possession of the plaintiffs over the suit property.
10. So far as the finding of encroachment is concerned, both the learned Trial Court and the learned First Appellate Court have recorded a concurrent finding, on the basis of the spot inspection report (Ex. P/5) and the admission of the defendant's witness, that the defendant was in possession of land in excess of the area purchased by him. The inspection report (Ex. P/5) clearly indicates the extent of possession of both parties and demonstrates that the defendant was in excess possession. The evidence on record, thus, establishes that the defendant had encroached upon a portion of the plaintiffs' land measuring 4×12 square feet.



11. The contention of the learned counsel for the appellant regarding absence of proper demarcation does not merit acceptance. The finding with regard to encroachment has been recorded on the basis of the spot inspection report (Ex. P/5), panchnama, and other documentary evidence, which have been duly proved on record. The inspection carried out by the revenue authorities reflects the actual possession on the spot and provides a sufficient basis for recording the finding of encroachment. In addition, the admission made by the defendant's witness with regard to excess possession further corroborates the said finding.
12. The submission that the evidence has not been properly appreciated also does not deserve acceptance. The findings recorded are based on due appreciation of both oral and documentary evidence and do not suffer from any misreading or non-consideration of material evidence. So far as the contention regarding perversity is concerned, it is evident that the findings recorded by the learned Trial Court and the learned First Appellate Court are based on cogent evidence and are reasonable conclusions drawn from the material available on record. The same cannot be said to be perverse or contrary to law.
13. The learned First Appellate Court, upon a thorough re-appreciation of the entire evidence available on record, has only modified the decree to the limited extent of granting complete and effective relief by directing removal of the construction raised over the encroached portion of the suit property and for delivery of vacant possession within the stipulated period. Such modification, being in furtherance of complete justice



between the parties, does not suffer from any legal infirmity or jurisdictional error.

14. The findings so recorded by the learned First Appellate Court are essentially findings of fact based on proper appreciation of oral as well as documentary evidence, including Ex.P/5. The appellant has failed to demonstrate any perversity, misreading of material evidence, or patent illegality in such findings so as to give rise to any substantial question of law warranting interference under Section 100 of the Code of Civil Procedure.
15. The questions sought to be canvassed by the appellants are, in substance, directed against concurrent findings of fact and pertain merely to re-appreciation of evidence, which is impermissible in exercise of jurisdiction under Section 100 of the Code of Civil Procedure. In the considered opinion of this Court, the findings recorded by the Courts below are neither perverse nor illegal so as to call for interference.
16. Accordingly, this Court is of the considered opinion that the appeal does not involve any substantial question of law.
17. Consequently, the present Second Appeal is **dismissed** at the admission stage itself.

Sd/-
(Bibhu Datta Guru)
Judge