



2026:CGHC:3824

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**SA No. 425 of 2025**

1 - Smt. Aagaya Sahu W/o Shri Ishwar Sahu Aged About 37 Years R/o Ganesh Nagar Bhadrapara Risda Ward No. 37 House No. 783 P.S./ Post - Balco Nagar District Korba Chhattisgarh

2 - Ishwar Sahu S/o Shri Barun Sahu Aged About 42 Years R/o Ganesh Nagar Bhadrapara Risda Ward No. 37 House No. 783 P.S./ Post - Balco Nagar District Korba Chhattisgarh

Appellants**Versus**

1 - Smt. Ghasnin Bai W/o Shri Tirth Ram Aged About 62 Years R/o Ganesh Nagar Bhadrapara Risda Ward No. 37 House No. 783 P.S./ Post - Balco Nagar District Korba Chhattisgarh

2 - State Of Chhattisgarh Through Collector, Korba District - Korba Chhattisgarh

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

For Appellants(s) : Ms. Deepali Pandey, Advocate

For Resp No. 1. : Mr. Paras Mani Shriwas, Advocate

For Resp No. 2/State : Mr. Anand Gupta, Dy. GA

Hon'ble Shri Bibhu Datta Guru, Judge**Order on Board**



22.01.2026

1. By the present appeal under Section 100 of the Code of Civil Procedure, 1908, the appellants/defendants challenges the judgment and decree dated 12.06.2025 passed by the learned II Additional District Judge, Korba, District Korba (C.G.) in Civil Appeal No. 06-A/2024 (Smt. Aagaya Sahu & Anr. v. Smt. Ghasnin), arising out of the judgment and decree dated 08.12.2023 passed by the learned I Civil Judge, Class-I, Korba (C.G.) in Civil Suit No. 14-A/2017 (Smt. Ghasnin v. Aagaya Sahu & Others), whereby the Civil Suit filed by the plaintiff was decreed and the appeal preferred by the appellants/defendants was dismissed.
2. For the sake of convenience, the parties shall hereinafter be referred to as per their status before the learned Trial Court.
3. The plaintiff instituted a civil suit seeking declaration of title over the suit land and house, permanent injunction, and recovery of possession, pleading inter alia that her husband, late Tirith Ram, had constructed a residential house along with a courtyard on the suit land and was residing therein with his family. The suit land was allotted to Tirith Ram for residential purposes by the State Government under the *Rajiv Gandhi Aashray Yojana, 1988* for a period of 30 years vide order dated 15.07.1998 passed in Revenue Case No. 506/A-2/1997–98. It was pleaded that Tirith Ram was suffering from a serious heart ailment and, due to his medical treatment, the plaintiff frequently remained away from the suit house and eventually shifted to their native place, Thathari. Tirith Ram expired on 23.11.2016. After performing his last rites, when



the plaintiff returned to the suit house in December, 2016, she found that defendant Nos. 01 and 02 had illegally occupied the suit land and house, claiming to have purchased the same from Tirith Ram during his lifetime. Despite repeated demands for vacant possession and lodging of a report at Police Station Balco on 15.03.2017, possession was not restored, compelling the plaintiff to file the suit.

4. Defendant No. 01, in the written statement, while admitting certain facts, denied the remaining averments and contended that Plot No. 422 admeasuring 400 square feet is Government land and that Tirith Ram had sold the house standing thereon to defendant No. 01 after receiving the entire sale consideration and handing over possession pursuant to an agreement to sell dated 25.03.2016 for a consideration of ₹ 4,49,999/-. It was pleaded that the defendants are in peaceful possession of the suit property and that the plaintiff has raised a false dispute after the death of her husband.
5. Defendant No. 02, in the written statement, denied the plaint averments except those specifically admitted and pleaded that since the suit land is Government patta land, jurisdiction to adjudicate the dispute lies with the Revenue Court. It was further contended that Tirith Ram, after his retirement in 2015 and with the consent of his family members, executed an agreement to sell dated 25.03.2016 in favour of defendant No. 01, pursuant to which an advance amount of ₹70,000/- was paid and the remaining amount was paid subsequently, whereafter possession was



delivered in the presence of local residents. Dismissal of the suit was prayed for.

6. Defendant No. 03 remained ex parte and did not file any written statement.
7. After framing the issues and appreciating the evidence on record, the learned Trial Court, by judgment and decree dated 08.12.2023, decreed the suit holding that the suit land was patta land allotted to late Tirith Ram under the *Rajiv Gandhi Aashray Yojana* and that the alleged agreement to sell dated 25.03.2016 did not confer any right, title or interest upon the defendants, as the suit property was non-transferable under the terms of the patta and the Chhattisgarh Urban Areas Landless Persons (Grant of Patta Rights) Act, 1984. It was further held that, in any event, an agreement to sell does not effect transfer of ownership under Section 54 of the Transfer of Property Act, 1882. Accordingly, the plaintiff, being the lawful heir of Tirith Ram, was held entitled to declaration of title, recovery of possession, and permanent injunction.
8. Aggrieved by the judgment and decree passed by the learned Trial Court, defendant Nos. 01 and 02 preferred an appeal before the District Court, Korba, which was dismissed by affirming the judgment and decree dated 08.12.2023. Hence, the present second appeal.
9. Learned counsel for the appellants submits that the impugned judgments passed by the learned Trial Court and the First Appellate Court are perverse and contrary to the facts and law, inasmuch as the courts failed to appreciate that the appellants had purchased the suit land and house



from the original allottee for valuable consideration and were put in possession thereof. It is contended that the appellants are *bona fide* purchasers, patta (Ex.D-2) was subsequently issued in their favour, and they have been paying property tax and electricity charges, which clearly establishes their settled possession and ownership. It is further submitted that both the Courts misinterpreted the relevant provisions of law and ignored material oral and documentary evidence, and that the respondent No.1, after the death of her husband, has instituted a false and vexatious suit with an oblique motive to dispossess the appellants. Hence, the impugned judgments suffer from serious legal infirmities and call for interference by this Court.

10. I have heard learned counsel for the appellants, perused the material available on record.
11. Admittedly, the appellants claim their rights on the basis of an alleged agreement to sell dated 25.03.2016. It is well settled that in view of Section 54 of the Transfer of Property Act, 1882, an agreement to sell does not, of itself, create any right, title or interest in immovable property.
12. Section 54 of the Transfer of Property Act, 1882, reads as under:

“54. Sale. defined — “Sale” is a transfer of ownership in exchange for a price paid or promised or part-paid and part promised.

Sale how made.— Such transfer, in the case of tangible immovaeable property of the value of one hundred rupees and upwards, or in the case of a



*reversion or other intangible thing, can be made only
by a registered instrument.*

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13. Thus, merely executing an agreement to sell does not effect transfer of ownership unless the same is registered as a sale deed, which is a mandatory requirement for immovable property.
14. It is a settled position of law that patta land allotted under a Government scheme is governed by the terms and conditions of the grant, and the allottee holds the land only for the purposes specified in the grant. In the present case, the suit land was allotted under the Rajiv Gandhi Aashray Yojana, 1988, and the patta itself specifically provides that the land is non-transferable. Such allotment creates a statutory right in favour of the allottee, which is subject to the conditions imposed by the statute and the grant. A transfer or sale in violation of these conditions is void ab initio as it contravenes the statutory mandate and is against public policy. The Chhattisgarh Urban Areas Landless Persons (Grant of Patta Rights) Act, 1984, which governs the grant of patta rights, also restricts transferability of the patta land and clearly contemplates that the land is to be used only for the purpose for which it was allotted. Therefore, any transaction executed in violation of the non-transferability condition, including an agreement to sell or sale deed, cannot confer any right, title or interest on the transferee. The transferee, even if in possession, remains a mere trespasser and cannot claim any legal title against the lawful heir of the original allottee. Consequently, the alleged



sale/transfer of the patta land by the original allottee is illegal and ineffective, and the title continues to remain with the allottee or his lawful heirs.

15. Further, the concurrent finding of fact recorded by both the Courts is that the suit land is patta land, allotted under a government scheme, and is non-transferable. Any transfer in contravention of the terms of patta or the governing statute is void and does not confer legal title. The appellants, therefore, cannot claim any enforceable right on the basis of a transaction prohibited by law.
16. Much reliance has been placed by the appellants on patta Ex.D/2. However, a perusal of the written statement reveals that no specific plea was taken by the appellants regarding conferment of title or lawful possession on the basis of Ex.D/2. It is a settled principle of law that no amount of evidence can be looked into in the absence of pleadings. Moreover, Ex.D/2 is admittedly a subsequent document and cannot defeat the pre-existing lawful rights of the plaintiff, who has succeeded to the patta rights of late Tirith Ram in accordance with law.
17. The contention that the appellants are paying property tax or electricity charges does not, by itself, confer title, particularly when the foundational title itself is absent. Both the Courts have rightly appreciated this aspect.
18. This Court finds that the appellants are seeking re-appreciation of evidence and substitution of concurrent findings of fact, which is impermissible in second appeal under Section 100 CPC unless perversity



or substantial question of law is demonstrated. No perversity, illegality or jurisdictional error has been shown in the impugned judgments.

19. In *State of Rajasthan and others v. Shiv Dayal and another, reported in (2019) 8 SCC 637*, the Supreme Court, while reiterating the settled proposition of law, has held that when concurrent findings of fact are assailed in a Second Appeal, interference is permissible only if the appellants is able to demonstrate that such findings are vitiated in law, having been recorded de hors the pleadings, based on misreading of material documentary evidence, recorded in contravention of any statutory provision, or are such which no judicially acting court could reasonably have arrived at.
20. Be that as it may, the arguments advanced by the learned counsel for the appellants and the questions sought to be projected cannot be regarded as satisfying the test of a “substantial question of law” within the meaning of Section 100 of the Code of Civil Procedure, 1908. The issues raised are essentially questions of fact, already concurrently decided by both the courts upon due appreciation of evidence. The appellants have failed to demonstrate the existence of any substantial question of law warranting interference by this Court.
21. Upon careful examination of the impugned judgment, this Court finds that the findings recorded by the First Appellate Court as well as the trial Court are purely findings of fact, based on evidence available on record, and do not give rise to any substantial question of law. The grounds urged by the appellants essentially seek re-appreciation of evidence,



which is impermissible in a Second Appeal as no substantial question of law is made out.

22. In view of the foregoing discussion, this Court is of the considered opinion that the appellants have failed to make out any case warranting interference under Section 100 CPC.
23. Accordingly, the Second Appeal fails and is hereby **dismissed**.

Sd/-

(Bibhu Datta Guru)
Judge