



2026:CGHC:21100



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

SA No. 585 of 2018

Budhani Bai D/o Late Gurudayal Aged About 62 Years R/o Vill Manpur,
P.S. And Tah. Pratappur District Surajpur Chhattisgarh, District :
Surajpur, Chhattisgarh

... Appellant(s)

versus

1 - Dhani Ram S/o Ram Sai, Aged About 67 Years R/o Village Baikona,
Tah. Pratappur, District Surajpur Chhattisgarh.

2 - Chandan, S/o Dipan, Aged About 57 Years R/o Village Baikona, Tah.
Pratappur, District Surajpur Chhattisgarh.

3 - State Of Chhattisgarh Through Collector, Surajpur Chhattisgarh

.... Respondent(s)

(Cause title is taken from CIS)

For Appellant(s)	: Mr. Ravindra Sharma, Advocate
For State	: Mr. Malay Jain, Panel Lawyer

Hon'ble Shri Justice Bibhu Datta Guru

Judgment on Board

06/05/2026



1. The present Second Appeal has been preferred by the plaintiff under Section 100 of the Code of Civil Procedure, 1908, assailing the impugned judgment and decree dated 28.06.2018 passed by the learned Additional District Judge, Pratappur, District Surajpur (C.G.) in Civil Appeal No. 06-A/2016 (Budhani Bai vs. Dhani Ram & Ors.), affirming the judgment and decree dated 29.01.2016 passed by the learned Civil Judge Class-I, Pratappur, District Surajpur (C.G.), in Civil Suit No. 68-A/2011 (Budhani Bai vs. Dhani Ram & Ors.), whereby the civil appeal filed by the appellant/ plaintiff was dismissed. For the sake of convenience, the parties shall hereinafter be referred to as per their status before the Trial Court.
2. The plaintiff has instituted the present suit against the defendants seeking declaration of title and recovery of possession in respect of land bearing Khasra No. 265 admeasuring 0.437 hectares situated at Village Rampur, Tahsil Pratappur, as described in Schedule "A" appended to the plaint (hereinafter referred to as the "suit land"), pleading inter alia that the suit land was the self-acquired property of her father, late Gurudayal Gond, whose name was recorded in the settlement records during the survey settlement operations and who remained in peaceful possession and cultivation thereof during his lifetime. It is further pleaded that after the death of Gurudayal Gond, the name of the plaintiff's mother, Dashmet Bai, was mutated in the revenue records, and since Gurudayal Gond had no male issue, the plaintiff, being his



daughter, continued to reside with and look after her mother while cultivating the suit land. The plaintiff has further alleged that after the death of Dashmet Bai in January, 1983, defendant No.1, in collusion with defendant Nos.2 and 3, fraudulently executed a purported registered sale deed dated 14.03.1983 by impersonating another woman as Dashmet Bai and thereafter got the revenue records mutated in his favour on the basis of the said forged sale deed. According to the plaintiff, the said sale deed and consequential mutation entries are fraudulent, illegal and void, thereby clouding the plaintiff's title over the suit land, for which the present suit has been filed.

3. *Per contra*, defendant No.1, in his written statement, denied all the material averments made in the plaint and pleaded that the suit land was the self-acquired property of late Gurudayal Gond, but the plaintiff is not his legal heir and had never resided in Village Rampur. It was further pleaded that after the death of Gurudayal Gond, the land was duly mutated in the name of his wife, Dashmet Bai, who remained in possession and cultivation thereof as owner during her lifetime. According to the defendant, Dashmet Bai had validly executed a registered sale deed dated 14.03.1983 in favour of defendant No.1 after receiving consideration of Rs.2,000/-, pursuant to which his name was duly mutated in the revenue records. The defendant further contended that the parties belong to the Gond tribal community and are governed by their own customs and traditions, and not by general Hindu law. It was



also pleaded that Dashmet Bai died on 08.09.1983, i.e., about six months after execution of the sale deed, and therefore the allegation of fraud is false. The defendant further denied that the plaintiff ever received crops on share basis or had any title over the suit land, and also raised objections regarding maintainability, valuation and payment of proper court fees, seeking dismissal of the suit with costs.

4. Defendant No.2 and defendant No.3/State did not file any written statement in the matter. Further, as defendant No.3 remained absent despite service of notice, the proceedings against it were remained ex parte.
5. After framing the issues and upon due appreciation of the oral as well as documentary evidence available on record, the learned Trial Court dismissed the suit filed by the plaintiff, holding that the plaintiff failed to establish her claim over the suit land. Aggrieved by the said judgment and decree dated 29/01/2016, the plaintiff 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. (a) Learned counsel for the appellant/ plaintiff submits that both the learned Trial Court as well as the First Appellate Court have



committed grave error in law and on facts in dismissing the suit of the plaintiff, as the findings recorded by both the Courts are perverse and contrary to the oral and documentary evidence available on record. He submits that the plaintiff had specifically pleaded and adduced evidence to establish her status as the daughter and legal heir of late Gurudayal and also challenged the validity of the sale deed dated 14.03.1983 alleged to have been executed by Dashmesh Bai. He further submits that during pendency of the first appeal, the plaintiff/appellant had filed an application under Order 41 Rule 27 of the CPC along with additional documents including the death certificate and caste certificate issued by the Sub-Divisional Officer, Pratappur, and though the said application was allowed vide order dated 26.06.2018, the learned First Appellate Court proceeded to decide the appeal without properly considering the said documents and without following the due procedure of law. He would also submit that both the learned Courts failed to appreciate the material evidence in its proper perspective, resulting in perversity in the findings recorded against the plaintiff. Accordingly, it is prayed that the impugned judgments and decrees passed by both the Courts be set aside.

(b) In support of his contention, learned counsel placed reliance upon the judgment of Supreme Court in case of *Corporation of Madras & Anr. vs. M. Parthasarathy & Ors. reported in 2018 (9) SCC 445*.



7. I have heard learned counsel for the appellant 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. In the present case, both the learned Trial Court as well as the learned First Appellate Court, upon due appreciation of the pleadings and the oral as well as documentary evidence available on record, have concurrently held that the plaintiff utterly failed to establish that she was the daughter and legal heir of late Gurudayal Gond. The Courts have recorded a categorical finding that except for her bald oral assertions, no cogent documentary evidence such as birth certificate, school records, ration card or voter identity card was produced to substantiate her claim of lineage. On the contrary, in her cross-examination, the plaintiff herself admitted that Kauwa Gond was her father and Banga, Kotela and Kariman were her brothers, thereby completely discrediting her claim of being the daughter of late Gurudayal Gond. It has further been held that the plaintiff failed to examine any independent family member or person having special means of knowledge regarding the alleged relationship. The Courts have also observed that the parties belong to Scheduled Tribe community governed by their own customary practices and, therefore, the provisions of the Hindu Succession Act were not applicable.



9. Both the Courts have further concurrently held that the plaintiff failed to prove that Dashmet Bai had died in January, 1983 and also failed to establish that the registered sale deed dated 14.03.1983 was forged, void or fraudulently executed. The Trial Court as well as the First Appellate Court have relied upon the original death certificate (Ex.D-5) issued by the competent authority showing the date of death of Dashmet Bai as 08.09.1983, whereas the certificate produced by the plaintiff was not proved in accordance with law. The Courts have also recorded a concurrent finding that the registered sale deed dated 14.03.1983 was duly executed by Dashmet Bai in favour of defendant No.1, which stood proved through the testimony of the attesting witness as well as the Sub-Registrar, and there was no cogent evidence led by the plaintiff to establish impersonation or fraudulent execution of the sale deed. It has further been held that the plaintiff was aware of the execution of the sale deed since 14.03.1983 and, therefore, the suit instituted on 02.01.2003 was clearly barred by limitation under Article 59 of the Limitation Act, 1963.
10. As far as the plea raised by the appellant that the caste certificate of the plaintiff wherein her father's name has been shown as Gurudayal Gond, filed along with the application under Order 41 Rule 27 of the Code of Civil Procedure were not considered by the learned First Appellate Court is concerned, from perusal of the order dated 26.06.2018, it appears that the caste certificate



sought to be produced by the plaintiff was not permitted to be taken on record as additional evidence, whereas only the death certificate was accepted as additional evidence. Therefore, the contention raised by the appellant that the caste certificate was not considered by the learned First Appellate Court is misconceived and cannot be accepted, as the same has not been permitted to be taken on record as additional evidence.

11. So far as the death certificate accepted as additional evidence is concerned, even assuming the same was taken into consideration by the learned First Appellate Court, the plaintiff utterly failed to prove the very foundation of her claim that she was the daughter and legal heir of late Gurudayal Gond. Once the plaintiff failed to establish her status as legal heir, the entire basis of the suit itself collapses and no prejudice can be said to have been caused on account of consideration of the additional document i.e. the death certificate of Dashmet Bai. Accordingly, the judgment relied upon by learned counsel for the appellant would have no applicability to the facts of the present case.
12. Thus, the concurrent findings recorded by both the learned Courts regarding the status of the plaintiff as legal heir of late Gurudayal Gond is concerned, the same are based on proper appreciation of oral and documentary evidence, statutory provisions and surrounding circumstances, and the same do not suffer from any perversity, illegality or material irregularity warranting interference



in exercise of jurisdiction under Section 100 of the Code of Civil Procedure.

13. 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.
14. 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 failed to establish her case by placing cogent and sufficient material. The appellant failed to demonstrate any perversity, illegality, or misapplication of law in the findings so recorded.
15. 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.
16. 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.



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. 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 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., 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, 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., 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.”

19. 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 appellant 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.

20. Having heard learned counsel for the appellant 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.
21. Accordingly, the Second Appeal fails and is hereby **dismissed** resulting in upholding of the judgment and decree of the trial Court as well as the Appellate Court.

Sd/-

(Bibhu Datta Guru)
Judge