
(2019) 12 CHH CK 0079
In the Chhattisgarh High Court
Case No : Second Appeal No. 156 Of 2007

Hem Lal

APPELLANT

Vs

Sarpanch

RESPONDENT

Date of Decision : 17-12-2019

Acts Referred:

Code Of Civil Procedure, 1908 — Section 100

Citation : (2019) 12 CHH CK 0079

Hon'ble Judges : Sanjay K. Agrawal, J

Bench : Single Bench

Advocate : D.N. Prajapati, Abhinav Shrivastava, Vaibhav Maheshwari

Final Decision : Dismissed

Judgement

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellant/plaintiff under Section 100 of the CPC against the impugned judgment and decree dated 21/04/2006 passed by the first appellate Court affirming the judgment and decree of the trial Court dated 30/06/2005.

2. Mr. D.N. Prajapati, learned counsel for the appellant/plaintiff would submit that both the Courts below have concurrently erred in dismissing the suit of the plaintiff by recording a perverse finding holding that the suit land is a Government grassland and plaintiff has no right and title upon it, thus, the second appeal deserves to be admitted for hearing by formulating substantial question of law.

3. Plaintiff filed a suit stating inter alia that though suit land is a Government grassland but after the death of his father, since 1983, he has been in undisturbed, continuous and regular possession of the suit land, as such, the Tahsilder, Gunderdehi directing the plaintiff to remove his possession from the suit land is totally unauthorized wherein defendant did not file his written statement and proceeded ex- parte.

4. Learned trial Court, upon appreciating the oral and documentary evidence on record, recorded a finding that the suit land is a Government grassland upon which plaintiff has failed to prove his title and dismissed the suit which was affirmed by the first appellate Court.

5. The finding recorded by both the Courts below that the suit land is a Government grassland is a finding of fact based on evidence available on record as in para 3 of the plaint, plaintiff himself has admitted that the suit land is a Government grassland and he has been in its possession after encroaching upon the said suit land. In view of that, the concurrent finding recorded by both the Courts below holding the suit land to be Government grassland upon which plaintiff has failed to prove his title cannot be termed as a finding which suffers from perversity or illegality, as such, no substantial question of law rises herein.

6. The second appeal deserves to be and is accordingly dismissed in limine without notice to the other side.