

(2018) 09 CHH CK 0428
In the Chhattisgarh High Court
Case No : Second Appeal No. 35 Of 2003

Manihar

APPELLANT

Vs

Gram Panchayat Thadar

RESPONDENT

Date of Decision : 27-09-2018

Acts Referred:

Code Of Civil Procedure 1908 — Section 100
Chhattisgarh Land Revenue Code, 1959 — Section 237(3)

Citation : (2018) 09 CHH CK 0428

Hon'ble Judges : Sanjay K. Agrawal, J

Bench : Single Bench

Advocate : Awadh Tripathi, Vivek Tripathi, Arun Sao

Final Decision : Dismissed

Judgement

Sanjay K. Agrawal. J

1. This is plaintiff's second appeal under Section 100 of the CPC questioning the judgment and decree passed by the First Appellate Court whereby

and whereunder the said Court has affirmed the judgment and decree of the trial Court dismissing the suit.

2. Learned counsel for the appellant / plaintiff submits that the concurrent finding recorded by the two Courts below dismissing the suit is based on

perverse ground and contrary to law and it involves substantial question of law for determination.

3. On the other hand, learned State counsel would support the impugned judgment and decree.

4. I have heard learned counsel for the appellant and perused the records with utmost circumspection.

5. The plaintiff filed a suit for permanent injunction and recovery of possession

stating inter-alia that he is the Bhumi-swami of the suit land and as the patta was granted to him by the competent authority, the Gram Panchayat has no right and authority to make construction over the suit land. The written statement was filed by the Gram Panchayat and the State Government opposing the averments stating inter-alia that the subject land is a government land and reserved for grazing purpose and as per Section 237(3) of the Chhattisgarh Land Revenue Code, 1959 the Collector is authorized to settle the land and the Tahsildar was not authorized to grant patta. The trial Court after appreciating the oral and documentary evidence on record came to the specific conclusion that the suit land is reserved for grazing purpose and the competent authority to settle the land is the Collector and that the patta granted by the Tahsildar has already been revoked on 17.08.1991 therefore, plaintiff has no right and title over the suit land and thereby dismissed the suit which has been affirmed by the First Appellate Court.

6. The concurrent finding recorded by the two Courts below holding the suit land reserved for the grazing purpose and further finding that the patta granted to the petitioner has already been revoked and the plaintiff has no right over the suit land is a finding of fact based on evidence available on record. As such, I do not find any perversity or illegality much less for determination of substantial question of law in this second appeal.

7. Accordingly, the second appeal deserves to be and is hereby dismissed with no order as to cost(s). A decree be drawn up accordingly.