

(2019) 08 CHH CK 0183

Chhattisgarh High Court

Case No: Second Appeal No. 35 Of 2008

Sanjay Agrawal

APPELLANT

Vs

Shatruhan Thakur

RESPONDENT

Date of Decision: Aug. 27, 2019

Acts Referred:

- Code Of Civil Procedure 1908 - Section 100

Hon'ble Judges: Sanjay K. Agrawal, J

Bench: Single Bench

Advocate: Manoj Paranjpe, Mateen Siddiqui

Final Decision: Dismissed

Judgement

Sanjay K. Agrawal, J

1. Heard on the question of admission and formulation of substantial question of law in this second appeal preferred by the plaintiff under Section 100 of the CPC.

2. Mr. Manoj Paranjpe, learned counsel appearing for the appellant/plaintiff would submit that both the Courts below have committed legal error in holding that plaintiff has failed to prove the extent of encroachment made by the defendant upon the suit land, after having held that plaintiff is the owner of the suit land.

3. Plaintiff herein filed a civil suit for possession and damages stating inter alia that defendant has encroached upon the suit land. Both the Courts below have concurrently held that though the plaintiff has established the fact that he is the owner of the suit land but he has failed to prove that

defendant has encroached upon the suit land and has also not established the extent of encroachment made by the defendant upon the suit land.

4. The concurrent finding recorded by both the Courts below that plaintiff has failed to prove the extent of encroachment made by the defendant upon

the suit land is a finding of fact based on evidence available on record which is neither perverse nor contrary to record. As such, I do not find any

substantial question of law for determination in this second appeal.

5. The second appeal deserves to be and is dismissed in limine without notice to the other side. No order as to cost(s).