NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

SA No. 339 of 2012

Judgment reserved on 01/12/2025

Judgment delivered on 11/02/2026

*Ram Gopal (Died) Through Legal Heirs (Deleted)

1 - Vipin Kumar Mishra S/o S/o Late Shri Ram Gopal Aged About 65 Years R/o Village Kot, Tahsil Kasdol, District : Raipur, Chhattisgarh

2 - Ajay Kumar Mishra Aged About 55 Years R/o Village Kot, Tahsil Kasdol, District : Raipur, Chhattisgarh

3 - Smt. Veena Tiwari Wd/o Late Shri Hemqant Tiwari Aged About 62 Years R/o Village Kot, Tahsil Kasdol, District : Raipur, Chhattisgarh

... Appellants

versus

1 - (Deleted) Rameshwar (Died) Through Legal Heirs- As Per Honble Court Order Dated 23/11/2023

(1-A) Smt. Kaushilya Devi Wd/o Late Rameshwar Aged About 76 Years Resident Of Village Kot, Tehsil- Kasdol, District Balodabazar- Bhatapara (C.G.)

(1-B) Ashok S/o Late Rameshwar Aged About 60 Years Resident Of Village Kot, Tehsil- Kasdol, District Balodabazar- Bhatapara (C.G.)

(1-C) Anil S/o Late Rameshwar Aged About 58 Years Resident Of Village Kot, Tehsil- Kasdol, District Balodabazar- Bhatapara (C.G.)

(1-D) Anup S/o Late Rameshwar Aged About 55 Years Resident Of Village Kot, Tehsil- Kasdol, District Balodabazar- Bhatapara (C.G.)

(1-E) Akhil S/o Late Rameshwar Aged About 52 Years Resident Of Village Kot, Tehsil- Kasdol, District Balodabazar- Bhatapara (C.G.)

2 - State Of C.G. Through The Collector, Raipur, District-Raipur C.G., District : Raipur, Chhattisgarh

... Respondents

(Cause Title taken from Case Information System)

For Appellants	:	Ms. Meena Shastri, Advocate
For Respondents No. 1-A & 1-E	:	Mr. Rakesh Mishra, Advocate
For Respondent No.2/State	:	Mr. Kalpesh Ruparel, Panel Lawyer

Hon'ble Shri Ravindra Kumar Agrawal, Judge

C.A.V. JUDGMENT

1. The present Second Appeal under Section 100 of the Code of Civil Procedure has been filed by the plaintiff against the impugned judgment and decree dated 19-06-2012, passed by the learned Second Additional District Judge, Baloda Bazar, in Civil Appeal No. 57-A/2011, whereby the first appeal filed by the defendant No. 1 is allowed and the judgment and decree dated 03-11-2009, passed by learned Civil Judge Class-II, Kasdol, District Raipur, in Civil Suit No. 94-A/2010 is reversed,

2. For the sake of convenience, the status of the parties before the learned trial court is referred to hereinafter in the present appeal.

3. The Second Appeal is admitted on 30-06-2021 on the following substantial question of law:-

> "Whether the First Appellate Court is justified in dismissing the appeal by holding that the plaintiffs' suit is barred by limitation by reversing the judgment and decree of the Trial Court".

4. The plaintiff filed a suit for possession of the suit lands Kh. No. 1055, 1056 and 1060/1, area 0.036 hectare, 0.036 hectare and 0.352 hectare respectively, situated in the village Kot, P.H. No. 9, Tahsil Kasdol, District Raipur (present district Baloda Bazar-Bhatapara), and also for damages. It is pleaded in the plaint that the plaintiff is the title holder of the suit lands and the suit lands are recorded in the revenue record in his name. The defendant No. 1 has encroached on his land of Kh. No. 1055, 1056 and 1060/1 area 0.040 hectare out of total 0.072 hectare, and 0.105 hectare and using it as a threshing field. He filed an application before the Revenue Court, but his application was dismissed on 08-04-2002. The defendant has no right or title over his land, and therefore, the decree for possession of the suit land and damages may be passed.

5. The defendant contested the claim of the plaintiff and filed his written statement, denied the plaint averments and pleaded that the suit land of Kh. No. 1055, 1056 and 1060/1, area 0.036 hectare, 0.036 hectare and 0.352 hectare respectively, were partitioned in the year 1952, between the plaintiff and defendant No. 1. At that time, the defendant was at Raipur and studying. Taking advantage of the situation, the plaintiff has got recorded the revenue record in his own name. Since the relation between them was cordial, he has not raised an objection to it. Over the land of Kh. No. 1055 and 1056, a house is constructed in which both parties have equal right and possession and the land of Kh. No. 1060/1 is given to him in partition. There was a partition between the parties in the year 1952 and 1954-55, and the defendant

is in possession of his share of the property. The partition deed (panch faisla) was also executed on 22-04-1992, and therefore, there is no question of encroachment. Therefore, the suit is liable to be dismissed.

6. Based on the pleadings of the parties, the learned trial court framed the issue and proceeded to record evidence. During the trial of the case, the plaintiff Ramgopal examined himself as P.W.1, Vipin Mishra P.W.2, Ramayan P.W.3, Samaru Singh P.W.4, and relied upon the documents of Adhikar Abhilekh of the year 1954-55 (Ex. P-1), B-1 Kishtabandi (Ex. P-2), Khasara Panchsala (Ex. P-3), Khasara Panchsala (Ex. P-4), order dated 08-04-2002 passed by Nayab Tahsildar, Kasdol (Ex. P-5), memo of Demarkation Report (Ex. P-6), Field Book (Ex. P-7) and Revenue Map (Ex. P-8).

7. The defendant Rameshwar examined himself as D.W.1, Sukhau Ram Sahu D.W.2, Bisru Das manikpuri D.W.3, Laxman Verma D.W.4, and relied upon the documents of Application made by plaintiff before the Tahsildar, Kasdol for possession (Ex. D-1), Order Sheet of Tahsildar Kasdol from dated 16-01-1995 to 03-04-1995 (Ex, D-2), Revenue Map, Field Book and Panchnama (Ex. D-3), Application of Ramgopal filed under Section 250 of MP Land Revenue Code, 1959 (Ex. D-4), Information submitted by plaintiff before Tahsildar (Ex. D-5), Deposition of Vipin recorded before Tahsildar, Kasdol (Ex. D-6), Statement of Umend Ram (Ex. D-7), Batwaranama (Panch Faisla) (Ex. D-8), Deposition of Jivnath Verma recorded before the Tahsildar (Ex. D-9).

8. After hearing the parties, the learned trial court passed its judgment and decree and decreed the suit for possession of the suit lands in favour of the plaintiff by holding that the plaintiff is title holder of the suit land and the defendant has failed to prove that the suit land was given to him in his share and that he has not taken any steps to get the suit land recorded in his name, if there was any partition in the year 1952 and suit land was given to him. The learned trial Court also relied on the document Ex. P-6, which is the memo of demarcation report submitted before the Tahsildar, in which the defendant is found in possession of the suit lands.

9. The judgment and decree passed by the learned trial Court were challenged by the defendant No. 1 before the learned First Appellate Court, which was allowed, and the judgment and decree passed by the learned trial Court were set aside. The learned First Appellate Court has held that the suit of the plaintiff is barred by limitation because he came into knowledge in the year 1961-62 that the suit lands are possessed by the defendant No. 1, yet he has not taken any steps till the filing of the suit. Hence, this Second Appeal by the plaintiff which is admitted on the substantial question of law as set out in the earlier paragraph of this judgment.

10. Learned counsel for the appellant would submit that the learned trial Court has rightly held that the suit of the plaintiff was within limitation as the same was filed after dismissal of his application by the Revenue Courts on 08-04-2002, and thereafter, the suit was filed on 06-07-2004, which was within limitation. Against which, the learned

First Appellate Court has reversed the finding, holding that the plaintiff admitted in his evidence that he came into knowledge in the year 1952 itself about the defendant's possession of the suit land, but he filed the suit in the year 2004. By his admission, he was aware of the defendant's possession for a long time, but he did nothing; therefore, it cannot be held that his suit is within the limitation. She would further submit that in the record of rights of the year 1954-55 (Ex. P-1), the suit lands are recorded in the name of the plaintiff as Bhumiswami, which continued up to 2001-02, and he was in possession of the same. In the year 2000, when he demarcated his land, he came to know about the possession of the defendant No. 1 over the suit land and then he filed an application before the Tahsildar, Kasdol, under Section 250 of the CG Land Revenue Code, which was dismissed on 08-04-2002, and then the civil suit is filed, which is well within the limitation. The learned first appellate court has passed the judgment holding that the suit is barred by limitation is a perverse finding based on a misappreciation of evidence. Therefore, the impugned judgment and decree passed by the learned first appellate court is not sustainable and is liable to be set aside.

11. Per contra, learned counsel for Defendant No. 1 would support the impugned judgment and decree and submit that in the year 1954-55, the Defendant No. 1 was studying at Raipur, and the plaintiff has recorded his name alone in the revenue. records. Due to affection and good relations, he had not raised any objection at that time and continued in joint possession. Thereafter, on or about 1954-55, there

was a partition of the property, and he obtained his share of the property from Kh. No. 1055, 1056 and 1060/1 and came into physical possession of the same. The plaintiff was well within the knowledge of the possession of Defendant No. 1 over the suit land since 1952, but he did nothing. Only to create the cause of action, he got his land demarcated and filed the suit, which is apparently barred by limitation, and the learned first appellate court has rightly considered the evidence available on record. The appeal does not have any merit, and the same is liable to be dismissed.

12. I have heard learned counsel for the parties and perused the record of the trial court as well as the first appellate court with utmost circumspection.

13. In the present case, the plaintiff has filed the suit only for possession of the suit land, stating that Defendant No. 1 is in possession of his land Kh. No. 1055, 1056 and 1060/1. Defendant No. 1 is his real brother. He pleaded in his plaint that in the year 1994, Defendant No. 1 had encroached upon the suit land, and the cause of action arose in his favour in the year 1994 and continued till the filing of the suit. He also pleaded that he filed an application before the Revenue Court for possession of the suit land, but the same was dismissed on 08-04-2002, and then he filed the suit. The learned trial court decided the issue of limitation in favour of the plaintiff, holding that his suit is within limitation as it was filed after the dismissal of the Revenue Case. The learned first appellate court has set aside the finding of the trial court and held that the suit of the plaintiff is barred by limitation, holding that

he was in knowledge of possession of Defendant No. 1 over the suit land since 1961-62, which he admitted in his evidence.

14. The limitation for filing the suit for possession is prescribed under Article 64 of the Limitation Act, 1963, if the suit for possession is based on previous possession, and where the suit for possession is filed based on title, then Article 65 of the Limitation Act, 1963, would apply. In the former category of the suit, the period of limitation starts from the date of dispossession, and in the subsequent category of the suit, the limitation starts when the possession of the defendants becomes adverse to the plaintiff. In both these categories of the suit for possession, the limitation would be 12 years. Articles 64 and 65 of the Limitation Act, 1963, are reproduced below, which read as under:-

	Description of suit	Period of limitation	Time from which period begins to run
64.	For possession of immovable property based on previous possession and not on title, when the plaintiff while in possession of the property has been dispossessed	Twelve years.	The date of dispossession
65.	For possession of immovable property or any interest therein based on title. Explanation.—For the purposes of this article— (a) where the suit is by a remainderman, a reversioner (other than a landlord) or a devisee, the possession of the	Twelve years.	When the possession of the defendant becomes adverse to the plaintiff.

	defendant shall be deemed to become adverse only when the estate of the remainderman, reversioner or devisee, as the case may be, falls into possession; (b) where the suit is by a Hindu or Muslim entitled to the possession of immovable property on the death of a Hindu or Muslim female, the possession of the defendant shall be deemed to become adverse only when the female dies; (c) where the suit is by a purchaser at a sale in execution of a decree when the judgment-debtor was out of possession at the date of the sale, the purchaser shall be deemed to be a representative of the judgment-debtor who was out of possession.		

15. Article 65 of the Limitation Act also prescribed the time from which the period begins to run, and in the present case, it begins to run when the possession of the defendant becomes adverse to the plaintiff. Now the second question would be when the possession of the defendant would become adverse to the plaintiff. The issue of adverse possession is a blended question of law and fact. In order that possession should be adverse, there must be a "competitor" capable of suing and exercising due diligence to take steps to oust the adverse possessor. The mere possession of the property for more than twelve years does not constitute adverse possession. The nature of the possession by the defendant to be adverse as against the plaintiff

must be open and with sufficient publicity so as to attract the notice or the knowledge of the plaintiff. Adverse possession is nothing short of involuntary transfer and unless there is a clear intention on the part of adverse possessor to possess the shamilati property adversely, there would be no reason to hold, by the mere fact that he has adversely possessed the proprietary land, that he becomes the owner of the property corresponding to the proprietary holding by adverse possession. To constitute adverse possession, such possession must be adequate, in continuity, in publicity and hostile. (See "Karnataka Board of Wakf v. Government of India and Others" 2004 (10) SCC 779).

16. In the present case, the defendant has not set up his case that he has been in possession of the suit property since 1954-55 and by virtue of adverse possession, he became the owner and title holder of the same. It is the case of the defendant that in the family partition, the suit property was given to him in the year 1954-55, in which he is in possession.

17. Here, the issue is the starting point of the limitation to file the suit for possession. The time when the possession of the defendant becomes adverse to the plaintiff is the crux of the matter. Although the plaintiff, in so many words, admitted that he was in knowledge of possession of the defendant over the suit property since 1952 or 1961-62, but in the nature of the relationship between the parties, the nature of the property is the relevant factor to consider the nature of possession of the defendant. The plaintiff has stated in his deposition that he was

not in knowledge that at the time of partition, the property recorded in his name was allotted to the share of the defendant and the property recorded in the name of the defendant was allotted to him. When the Patwari had demarcated his land, he came to know about the possession of the defendant over 36 dismil of his land.

18. One more aspect of the case is that in the year 1992, there was a Batwaranama (Panch Faisla) (Ex. P-8) executed between the parties. The defendant himself has pleaded that in the year 1992, the said deed was executed. From perusal of the said Panch Faisla (Ex. P-8), it transpires that there was a settlement of some property between the parties, including the suit property of Kh. No. 1060/1. This Panch Faisla would clearly demonstrate that there was no complete partition of the family property between the parties till 1992, and their possession was permissive in nature. Although the said Panch Faisla is not registered, the parties have admitted the execution of Panch Faisla (Ex. P-8) and have the effect of "estoppel" against the parties. In such circumstances, when some of the property was partitioned, settlement of some of the property was done in the year 1992; the parties were not in knowledge that the other party was in possession of the property obtained by him in partition, and both parties claimed possession of the property comes from their joint family and both are brothers, it cannot be said that the possession of the defendant over the suit property was hostile and adverse to the plaintiff, so that it can be held that the limitation to file the suit starts from 1952 or 1961-62. The learned first appellate court has discarded the Panch Faisla (Ex.

P-8) on the ground that it is not registered, but has failed to consider that it operates "estoppel" against the parties.

19. To consider and compute the limitation period and to decide the issue, I have to examine the evidence produced by the parties in the case. The P.W. 1 Ramgopal (Plaintiff) has not filed his affidavit in the form of examination-in-chief under Order 18 Rule 4 of CPC. He appeared as the P.W. 1 only to mark the exhibits in the documents filed by him. The order sheet of the learned trial Court dated 03-07-2008 reflects that earlier, the suit was being prosecuted by the power of attorney of Ramgopal (plaintiff), namely Vipin Mishra, but his power of attorney has not been filed in the case, and then the plaintiff sought permission to examine himself in the case, and he was examined as P.W. 1 on 23-09-2008. He admitted in para 3 of his cross-examination that there was a mutual partition of the property between his father and his brothers in the year 1954. His father obtained the property of the village Kot in the partition. His father died in the year 1980. He admitted that he is claiming his exclusive title because the lands were recorded in his name alone. He also admitted that there was a partition between him and his brother in the year 1952. He did not tell as to whether the property obtained by him in partition was in possession of his brother, and the property obtained by his brother was in his possession. In para 5 of his cross-examination, he admitted that "विवादित भूमि पर प्रतिवादीगण द्वारा कब्जा कर लिये जाने की जानकारी मुझे सन् 1952 में हो गई थी। ऐसा नहीं है कि सन् 1995 एवं 2000 में मुझे जानकारी हुई कि विवादित भूमि पर प्रतिवादीगण काबिज कर लिये हैं।".

He further stated that the dispute with the defendant started in the year 1962. He also admitted that he got his land demarcated, but he did not know about the reports. In para 6 of his cross-examination, he admitted that the suit land was given to the defendant in partition. He further stated that the property of the village Kot was partitioned 55 years back. The suit land is recorded in his name, but the defendant has encroached on his 36 dismil of land. In para 8 of his cross-examination, he admitted that "यह कहना सही है कि सन् 1952 और 1961-62 में मुझे इस बात की जानकारी हो गई थी कि वादभूमि पर रामेष्वर कब्जा कर लिया है। हम लोगों का बंटवारा सन् 1954 में हो गया था। He further stated in para 9, that "यह कहना गलत है कि मेरे और प्रतिवादी के मध्य सन् 1994 में विवाद हुआ था। साक्षी स्वतः कहता है कि सन् 1982 के बाद विवाद प्रारंभ हो गया था।". He also admitted that he got demarcated his land firstly in the year 1995 and filed the application before the Tahsildar, for possession, but he did not know about its result. In the year 2000, he again demarcated his land, in which the possession of the defendant was found. He further admitted in para 9 that after the partition, the defendant Rameshwar is in possession of the suit land.

20. P.W. 2 Vipin Mishra is the son of the plaintiff Ramgopal Mishra. He stated in his evidence that he has not filed any document showing that before 1954-55, the suit land was recorded in the name of his father. His father has not informed him about the fact that they were in knowledge of possession of the defendant over the suit land since 1962. He did not know that the property obtained by his father in partition is recorded in the name of the defendant, and the property

obtained by the defendant is recorded in the name of his father.

21. P.W. 3 Ramayan and P.W. 4 Samaru are the witnesses of the demarcation of the land. They did not know about the partition between the parties. However, they stated that the dispute between the parties has continued for a long time, and they came to know about their dispute after the demarcation of the land. P.W. 4 Samaru has admitted in his cross-examination that "यह कहना सही है कि सन् 1954-55 से तथा विवाद दिनांक तक रामेश्वर का वादभूमि पर लगातार कब्जा चला आ रहा है। 1994 में जब सीमांकन हुआ तब मुझे मालूम हुआ कि बाद भूमि रामगोपाल के नाम पर दर्ज है".

22. From the evidence of the plaintiff, it is quite vivid that he was in the knowledge of possession of the defendant over the suit property since 1954-55 or even from the year 1961-62, but he did nothing since 1994-95, when he got the suit land demarcated. When the partition of the property took place in the year 1954-55, and the plaintiff came to know about the possession of the defendant in the year 1954-55 and 1961-62, he ought to have filed the suit within 12 years of that day, but he did nothing. The present suit is filed on 06-07-2004. When the plaintiff was in knowledge of possession of the defendant since 1954-55 and 1961-62, it cannot be said that the cause of action arose in the year 1994 or 2000, when the demarcation of the suit land was carried out. The learned trial Court decided the issue of limitation, holding that the cause of action arose in favour of the plaintiff in the year 2002 when his application for possession is dismissed by the Revenue Court, which appears to be the incorrect consideration.

23. The suit of the plaintiff for possession is based on the title that, by the partition, he got the suit land in partition and the title holder of the property, and the issue is governed by Article 65 of the Limitation Act, 1963. The period of limitation for filing of suit begins to run from the date on which the possession of the defendant becomes adverse to the plaintiff.

24. In a suit, where both the plaintiff and defendant failed to established their title, as admittedly the defendant is in possession over the suit property and further in view of the fact that the plaintiff has not been able to show that the possession of the defendant was a permissive one under the plaintiff, the plaintiff's suit could not have been decreed. In such situation, the Court will be entitled to draw a presumption of title in the defendant relying on the doctrine "possession follows title as contemplated under Section 110 of the Evidence Act, 1872. Assuming that the defendant was required to prove "animus possidendi" as well as "corpus possidendi" it must be held that the defendant has been able to prove his possession for a long time.

25. There cannot be any doubt that the proof of adverse possession, the same must be hostile at its inception, must be continuous, hostile and open to the knowledge of the true owner, but it is also well settled that the question as to whether certain admitted facts constitute an open assertion of title is a question of fact and the rule that adverse possession should be shown to have been brought to the knowledge of the person against whom it is claimed, is not applicable to a person, who is a complete stranger.

26. Further the question of knowledge on the part of the plaintiff also would arise as to whether he had sufficient means to know what is happening at the suit property the Court does not come to the aid of a person who is not vigilant in respect to his property for a long period of time. In **Secretary of State v. Debendra Lal Khan, AIR 1934 PC 23**, the Privy Council has authoritatively explained the concept of **"knowledge"** in the context of adverse possession and limitation. The relevant following passage is most frequently relied upon and is relevant for reproduction in your judgment:

> "5. ……...It is sufficient that the possession be overt and without any attempt at concealment so that the person against whom time is running ought, if he exercises due vigilance, to be aware of what is happening. If the rights of the Crown have been openly usurped it cannot be heard to plead that the fact was not brought to its notice."

The correct view is that where the possession is such that the owner must, with reasonable diligence, have become aware of it, the law will impute knowledge to him. It is not necessary that the owner should have actual knowledge of the adverse possession; it is sufficient if the possession is open and notorious so that knowledge can reasonably be attributed to him.

27. The sole substantial question of law involved in the present Second Appeal is *whether the First Appellate Court was justified in reversing the judgment and decree of the Trial Court by holding that the plaintiff's suit for possession is barred by limitation*. The answer to the

said question necessarily depends upon determination of the true starting point of limitation under Article 65 of the Limitation Act, 1963, and whether the plaintiff was vigilant in asserting his alleged title.

28. It is well settled that in a suit for possession based on title, the limitation begins to run when the possession of the defendant becomes adverse to the plaintiff, and not from any subsequent event such as demarcation or dismissal of revenue proceedings. The law does not recognize a *recurring cause of action* in cases of dispossession once the possession becomes hostile and to the knowledge of the true owner.

29. In the present case, the evidence of the plaintiff himself decisively establishes that he had knowledge of the defendant's possession over the suit land since 1952 or at least 1961–62. The categorical admissions made by the plaintiff in paragraphs 5, 8 and 9 of his cross-examination leave no room for ambiguity. Once such admissions are on record, the plaintiff cannot be permitted to resile and artificially extend limitation by relying upon subsequent demarcation proceedings or revenue litigation.

30. The Hon'ble Supreme Court in **P.T. Munichikkanna Reddy v. Revamma**, (2007) 6 SCC 59, has authoritatively held that adverse possession is founded on the maxim *vigilantibus non dormientibus jura subveniunt* (the law assists the vigilant and not those who sleep over their rights). Where a party having knowledge of hostile possession remains silent for decades, the law imputes acquiescence and abandonment of rights.

31. The contention of the appellant that limitation commenced only after dismissal of proceedings under Section 250 of the Land Revenue Code is legally untenable. Revenue proceedings do not suspend or extend limitation for filing a civil suit unless expressly provided by statute. The Supreme Court in **State of Punjab v. Gurdev Singh**, (1991) 4 SCC 1, has held that limitation cannot be arrested by pursuing remedies before an incompetent forum or by unilateral acts of the plaintiff.

32. The Trial Court gravely erred in holding that the cause of action arose only in the year 2002. The cause of action for possession arose the moment the plaintiff became aware of dispossession or hostile possession, which, by his own admission, occurred decades earlier. Demarcation is merely a fact-finding exercise and cannot create a fresh cause of action where knowledge already existed.

33. As regards the reliance placed upon the Panch Faisla (Batwaranama) of 1992, even assuming its execution, the same does not advance the case of the plaintiff. Firstly, the document is unregistered and cannot confer or extinguish title. Secondly, even otherwise, it does not negate the long, continuous and open possession of the defendant. At best, it evidences acknowledgment of an existing state of affairs, rather than interruption of possession.

34. Further, the doctrine under Section 110 of the Evidence Act squarely applies. When the defendant is found in settled possession for several decades and the plaintiff fails to establish subsisting title enforceable within limitation, the presumption tilts in favour of the possessor. The

Trial Court failed to appreciate this settled principle and mechanically relied upon revenue entries, which are only fiscal in nature and do not confer title.

35. The concept of “knowledge” in adverse possession does not require proof of actual notice. It is sufficient if possession is open and notorious so that the true owner, with reasonable diligence, ought to have known. The Privy Council in **Secretary of State v. Debendra Lal Khan**, AIR 1934 PC 23, has lucidly explained that law imputes knowledge where possession is overt and unconcealed. This principle has consistently been followed by the Supreme Court.

36. In the present case, the plaintiff admittedly resided in the same village, the defendant constructed and used the land openly, and disputes existed since at least 1962. Therefore, the plea that knowledge arose only in 1994 or 2000 is an afterthought and contrary to record.

37. Once limitation had commenced in the 1950s or early 1960s, the right to sue stood extinguished by efflux of time under Section 27 of the Limitation Act. A time-barred right cannot be revived by subsequent demarcation or by initiating revenue proceedings.

38. The First Appellate Court, being the final Court of facts, has meticulously appreciated oral and documentary evidence and has recorded a well-reasoned finding that the suit is barred by limitation. No perversity, illegality or misapplication of law is demonstrated warranting interference under Section 100 CPC.

39. It is trite law that a Second Appeal does not lie merely because

another view is possible. Interference is permissible only when findings are perverse or based on no evidence. The Supreme Court in **Narayanan Rajendran v. Lekshmy Sarojini**, (2009) 5 SCC 264, has reiterated that re-appreciation of evidence is impermissible in Second Appeal.

40. In view of the foregoing analysis, this Court is of the considered opinion that the First Appellate Court has rightly reversed the judgment of the Trial Court and correctly held that the plaintiff's suit for possession is hopelessly barred by limitation.

41. The substantial question of law framed is answered in the affirmative, holding that the First Appellate Court was fully justified in dismissing the suit as barred by limitation.

42. Consequently, the Second Appeal fails and is **dismissed**. No order as to costs.

43. An appellate decree be drawn accordingly.

Sd/-
(Ravindra Kumar Agrawal)
Judge

ved