



2026:CGHC:6910

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

SA No. 125 of 2015

Tek Ram S/o Sukhi Ram Aged About 55 Years R/o Village Dhangaon, Tahsil Pamgarh, District Janjgir-Champa, Chhattisgarh

... Appellant(s)

versus

1. Prahlad (Died)

2. Gunaram S/o Kholbahra Aged About 34 Years R/o Village Dhangaon, Tahsil Pamgarh, And District Janjgir-Champa, Chhattisgarh

3. Derhin (Died)

4. Buliram S/o Shiv Singh Aged About 42 Years R/o Village Dhangaon, Tahsil Pamgarh, And District Janjgir-Champa, Chhattisgarh

5. Gajaram S/o Shiv Singh Aged About 37 Years R/o Village Dhangaon, Tahsil Pamgarh, And District Janjgir-Champa, Chhattisgarh

6. Lachchhram S/o Shiv Singh Aged About 32 Years R/o Village Dhangaon, Tahsil Pamgarh, And District Janjgir-Champa, Chhattisgarh

7. State Of Chhattisgarh Through The District Collector, Janjgir, District Janjgir-Champa, Chhattisgarh

... Respondent(s)

For Appellant(s)	:	Mr. Somnath Verma, Advocate
For Respondent/ State	:	Mr. Malay Jain, P.L.
For Respondents No. 2, 4 to 6	:	Mr. Shashi Kumar Kushwaha, Advocate

Hon'ble Shri Bibhu Datta Guru, Judge
Judgment on Board

06.02.2026

1. The plaintiff/ appellant has preferred this second appeal under Section 100 of the Code of Civil Procedure, 1908 (for brevity CPC) against the judgment & decree dated 20.01.2015 passed by the Learned 3rd Additional District Judge, Janjgir, District Janjgir-Champa in Civil Appeal No. 59-A/2014 (*Prahlad & Ors. Vs. Tekram & Anr.*) whereby the appeal by the defendants/ Respondents herein has been allowed by reversing the judgment of the Trial Court which was preferred against the judgment and decree dated 31.07.2010 passed by the Learned Civil Judge, Class-II, Pamgarh in Civil Suit No. 150-A/2007 (*Tek Ram Vs. Prahlad & Ors.*) whereby the learned trial Judge has allowed the suit of the plaintiff/ appellant herein. For the sake of convenience, the parties would be referred as per their status before the learned trial Court.
2. The appeal was admitted by this Court on 28.09.2016 for hearing on the following substantial question of law:-

“ Whether the First Appellate Court was justified in holding that ‘*Shikari*’ is aboriginal tribe within the meaning of Section 165 (6) of the Chhattisgarh land Revenue Code in Janjgir Tahsil and thereby committed a legal error in reversing the reasoned order finding by the trial Court?”

3. The plaintiff preferred the suit for permanent injunction and in alternative for possession of the suit land pleading inter alia that the suit land was recorded in the revenue records in the names of Ashok Kumar Singh and Manharan Singh, descendants of Satrajit Singh, prior to March 11, 1977. After due verification, the plaintiff purchased the suit land from its previous owners, Manharan Singh and others, through a registered sale deed dated March 11, 1977, for Rs. 1000/- thereby acquiring ownership and possession of the suit land. The plaintiff also had the suit land mutated in his name vide mutation entry no. 303 on May 28, 1977. He has been cultivating the suit land and is still in possession of it. On September 22, 2004, the defendants threatened the plaintiff, stating that they had removed the plaintiff's name from the suit land records and registered their own names, and therefore, the plaintiff should hand over possession of the suit land to them. According to the plaintiff, the defendants also informed him that they had registered their names in the revenue records by claiming themselves to be the members of Scheduled Tribe, though the

defendants belong to the *Shikari* caste, which is not a Scheduled Tribe in Janjgir Tehsil. In such a situation, if they have registered their names in the revenue records by claiming to be members of a Scheduled Tribe, then that order is illegal and without jurisdiction and therefore not binding on the plaintiff. Therefore, a permanent injunction should be issued regarding the suit land, prohibiting the defendants from dispossessing the plaintiff from the suit land, and during pendency of the suit if the defendants are found to be in possession thereof, then the plaintiff be allowed to take possession of the suit land from the defendants.

4. The defendants, in their written statement, have denied the plaintiff's title and possession over the suit land and contended that the land originally belonged to Kholbahra and Shivasinh of the *Shikari* community (belongs to aboriginal tribes) and that, without permission of the competent authority, the land was illegally mutated in the name of Satrajit Singh, who had no valid title to transfer. It is pleaded that the plaintiff never acquired lawful title or possession. The defendants further pleaded that proceedings under Section 170(B) of the Chhattisgarh Land Revenue Code, 1959 (for brevity 'the Code') were initiated before the Sub-Divisional Officer, Janjgir, wherein after hearing the plaintiff, an order was passed directing restoration of the land in favour of the defendants, pursuant to which possession was delivered to them. The plaintiff neither challenged the said order nor raised any

objection regarding the status of the *Shikari* community. It is further contended that, in view of Sections 170(B) and 257 of the Code, the jurisdiction of the Civil Court is barred, and therefore the suit is liable to be rejected under Order VII Rule 11(d) CPC, and no relief of injunction can be granted.

5. On the pleadings of the parties, the learned trial Judge heard the suit and framed as many as 5 issues in the plaint and given opportunity to the parties to adduce evidence, both oral and documentary and after a full fledged trial allowed the suit of the plaintiffs on the ground that since the *Shikari* community was not notified as a Scheduled Tribe in Janjgir Tehsil & Pamgarh Tehsil of Janjgir District the proceedings under Section 170(B) of the Code initiated by the Sub-Divisional Officer, Janjgir, were without jurisdiction and had no legal effect. Consequently, the revenue order dated 26.08.1996 did not confer any right or title upon the defendants, and the bar of Civil Court jurisdiction was not applicable. Further, the defendants failed to prove actual delivery of possession, whereas the plaintiff established continuous possession over the suit land since 1977. Accordingly, the plaintiff's possession was protected; the suit was held maintainable; proper court fee was found to be paid; and a decree of permanent injunction was granted in favour of the plaintiff.
6. Against the judgment and decree passed by the trial Court the defendants/ respondents herein has preferred first appeal before

the First Appellate Court which has been allowed and the judgment and decree of the trial court has been reversed vide judgment and decree impugned. The learned First Appellate Court has categorically observed that the trial Court committed a patent error in law by determining the status of the *Shikari* community on the basis of subsequent notifications, instead of examining the legal position prevailing on the date of the transaction. As per the Gazette notification dated 02.12.1960 issued under Section 165 of the Code, the *Shikari* community stood declared as a Scheduled Tribe at the time of the sale dated 15.01.1965. Accordingly, the transfer of the suit land by Ramhu, a tribal, in favour of a non-tribal attracted the provisions of Section 170(B) of the Code. The appellate Court further held that proceedings under Section 170(B) fall within the exclusive jurisdiction of the Revenue Courts and that the jurisdiction of the Civil Court is barred under Section 257 of the Code. The order dated 26.08.1996 passed by the Sub-Divisional Officer directing restoration of the land to the legal heirs of Ramhu was held to be legal and valid. Consequently, the findings and decree of the trial Court were set aside and the suit was dismissed. Thus, this appeal by the plaintiff.

7. Learned counsel for the appellant submits that the learned First Appellate Court has committed a manifest error of law in treating the 'Shikari' caste as a Scheduled Tribe in Janjgir-Champa District. He further places reliance upon the Gazette Notification issued under the Constitution (Scheduled Tribes) Order, 1950, Chapter I

Part-VIII (Madhya Pradesh), to contend that the Shikari community has been notified as a Scheduled Tribe only in Bilaspur and Katghora Tahsils of Bilaspur District. In the said notification, there is no mention of Pamgarh Tahsil of Janjgir District. On the said ground, it is urged that the impugned judgment and decree deserve to be set aside and the appeal be allowed.

8. I have heard learned counsel for the parties, perused the material available on record.
9. With regard to the issue, the order-sheet of the proceedings before the Sub-Divisional Officer itself demonstrates that the Shikari caste is shown at Serial No. 36 in the list of Scheduled Tribes of Chhattisgarh (Appendix-14), however, the said document also clearly establishes that the Shikari caste is not recognized as a Scheduled Tribe neither in Janjgir nor in Pamgarh Tehsil, which fact stands duly exhibited on record. The said fact has also been categorically recorded by the Naib Tahsildar, Pamgarh, on 14.1.2008.
10. It is noteworthy to mention here that in the initial order namely; the Constitution (Scheduled Tribes) Order, 1950 issued on 6th September, 1950 at the Schedule Part-IV – Madhya Pradesh several castes of scheduled tribes (belong to aboriginal tribes) have been shown for different parts of the State including the Katghora Tahsil of Bilaspur district, however, in the said schedule there is no mention of the subject community i.e. Shikari. For the first time, in the Gazette Notification dated 20th September, 1976 issued under

the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976, clarifies that any reference in this Order to a State or to a district, or other territorial division thereof shall be construed as a reference to the State, district, or other territorial division as constituted on the 1st day of May, 1976. As per Part-VIII (Madhya Pradesh), Serial No. 40, the 'Shikari' community is recognized as a Scheduled Tribe only in Bilaspur and Katghora Tahsils of Bilaspur District, and not in Janjgir-Champa.

11. In the absence of statutory recognition of the *Shikari* caste as a Scheduled Tribe in the concerned area, the provisions of Section 170(B) of the Code could not have been invoked. Section 170(B) applies only where a transfer of land by a person belonging to a Scheduled Tribe in favour of a non-tribal is established. Since the essential jurisdictional fact that the transferor belonged to a Scheduled Tribe in the notified area was not satisfied, the proceedings initiated under Section 170(B) were wholly without jurisdiction. Consequently, the order passed by the Sub-Divisional Officer directing restoration of the suit land cannot operate to divest the appellant of his lawful rights, nor can such an order bar the jurisdiction of the Civil Court under Section 257 of the Code.
12. The substantial question of law framed in this second appeal pertains to the correctness of the finding recorded by the First Appellate Court holding that the *Shikari* caste is an aboriginal / Scheduled Tribe within the meaning of Section 165(6) of the Code in Janjgir Tahsil, and on that basis reversing the well-reasoned

judgment of the Trial Court.

13. On careful examination of the statutory provisions, notifications, and material available on record, this Court is of the considered view that the First Appellate Court committed a substantial error of law. It is well settled that the status of a caste or community as a Scheduled Tribe is area-specific and can be determined only on the basis of the Presidential Order issued under Article 342 of the Constitution of India, as amended from time to time. The Constitution (Scheduled Tribes) Order, 1950 (Part-VIII, Madhya Pradesh), as amended by the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976, clearly shows that the *Shikari* community was notified as a Scheduled Tribe only in Bilaspur and Katghora Tahsils of Bilaspur District. In the said notification, there is no mention of Pamgarh Tahsil of Janjgir District. The notification itself clarifies that the reference to districts or territorial divisions shall be construed as existing on the cut-off date.
14. The order-sheet of the proceedings before the Sub-Divisional Officer also categorically demonstrate that the *Shikari* caste is not recognized as a Scheduled Tribe in Janjgir-Champa District. In the absence of a valid statutory notification applicable to Pamgarh Tahsil of Janjgir, the First Appellate Court erred in law in extending the Scheduled Tribe status to the respondents, who are the residents of village Dhangaon, Pamgarh Tehsil, District Janjgir-Champa (CG) and also erred in reversing the well reasoned

judgment and decree of the trial Court.

15. The Hon'ble Supreme Court in ***State of Maharashtra v. Milind & Ors., (2001) 1 SCC 4***, has authoritatively held that Courts have no power to add to, subtract from, or modify the list of Scheduled Tribes notified under Article 342, and that the Presidential Order is final and conclusive.
16. Further, in a second appeal under Section 100 CPC, interference is justified where the First Appellate Court records findings contrary to statutory notifications or based on an erroneous interpretation of law, giving rise to a substantial question of law. The Supreme Court in ***Narayanan Rajendran v. Lekshmy Sarojini, (2009) 5 SCC 264***, has held that a finding based on misreading of legal provisions or ignoring binding statutory material is liable to be interfered with in second appeal.
17. In the present case, once it is held that the *Shikari* caste was not a Scheduled Tribe in Pamgarh Tahsil of Janjgir District, the very foundation for invoking Section 170(B) of the Code collapses. Consequently, the proceedings before the Sub-Divisional Officer and the order dated 26.08.1996 cannot operate as a bar under Section 257 of the Code. The Trial Court rightly exercised jurisdiction and correctly appreciated the evidence relating to possession.
18. Accordingly, the substantial question of law is answered in **favour of the plaintiff** and against the defendants. The judgment and decree dated 20.01.2015 passed by the First Appellate Court are

set aside, and the judgment and decree dated 31.07.2010 passed by the Trial Court are restored.

19. The Second Appeal is, therefore, **allowed**, leaving the parties to bear their own costs.
20. A decree be drawn accordingly.

**SD/-
(Bibhu Datta Guru)
Judge**

Jyoti

Head Note

- Courts have no power to add to, subtract from, or modify the list of Scheduled Tribes notified under Article 342 of the Constitution of India, and that the Presidential Order is final and conclusive.