

IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

RSA No. 160/2025

Decided on: 17.06.2026

Panweshwari Devi Appellant

Versus

Sunita & ors. Respondents

Coram:

The Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?¹

For the Appellant: Mr. Karan Singh Kanwar, Advocate.

For the Respondent: Mr. Vijender Katoch, Advocate, for
respondent No.1.

Mr. Ashok Kumar, Advocate, for
respondents No.2 to 4.

Romesh Verma, Judge (oral)

The instant appeal arises out of the judgment and decree, dated 17.02.2025, as passed by the learned Additional District Judge, Nahan, District Sirmaur, H.P. whereby the appeal preferred by the appellant/defendant No.1 was dismissed and the judgment and decree, dated 17.01.2020 as passed by the learned Senior Civil Judge, Nahan, District

¹Whether reporters of the local papers may be allowed to see the judgment? Yes.

Sirmaur, H.P., decreeing the suit of the plaintiff and dismissing the counter claim of defendant No.1, was affirmed.

2 The facts, as emerge in the instant case, are that the plaintiff, Sunita, wife of Surender Mohan and daughter of late Mahima Chander, filed a suit for separate possession as owner by way of partition against defendant No.1 Panweshwari Devi, widow of late Mahima Chander, Hem Lata, Meena Kumari and Rekha Devi, daughters of late Mahima Chander in the Court of learned Civil Judge, Senior Division, Nahan at Sirmaur on 27.02.2015. As per the averments as made in the plaint, the house i.e. property bearing Khata/Khatauni No.377/544, Khasra Nos. 601 (41-42), 605 (35-70), 606 (33-72), 607(27-90), 608 (40-32), situated in Mauza Dhabo, Tehsil Nahan, District Sirmaur, as per jamabandi for the year 2012-13 was owned and possessed by Mahima Chander, son of Tulsi Ram, who died on 17.07.1995 leaving behind the plaintiff and defendants as his legal heirs. It was averred that after the death of Mahima Chander, the plaintiff and defendants have become owners in possession of the suit property to the extent of 1/5th share each and their names have also been incorporated in the revenue record. The suit property is joint inter se the parties and has not been partitioned by metes and bounds.

3 It was further averred that the plaintiff and defendants have been using the suit property. Since the plaintiff was not getting full benefits of her share in the suit property being joint inter se the parties, she did not want to keep the suit property as joint with the defendants. The defendants have been in use and occupation of the entire property, therefore, she is also entitled to mesne profits for use and occupation of share of the plaintiff as per the present market rate as well as her 1/5th share in the suit property.

4 As per plaintiff she requested the defendants several time to get the joint holding partitioned by metes and bounds and to get her share separated from the suit property, but the defendants always evaded request of the plaintiff on one pretext or other. Therefore, the plaintiff filed a suit for separate possession as owner by way of partition in equal shares between the plaintiff and defendant Nos. 1 to 4 of the house i.e. property bearing Khata/Khatauni No. 377/544, Khasra Nos. 601 (41-62) 605(35-70), 606(33-72), 607(27-90), 608(40-32), situated in Mauza Dhabo, Tehsil Nahan, Distt. Sirmaur as per jamabandi for the year 2012-13 by metes and bounds with further prayer that the plaintiff be put into possession of her 1/5th share and her share be separated from the joint holdings and she be put into possession of her respective share.

5 The said suit was duly contested by defendant No.1 by filing written statement, wherein preliminary objections qua maintainability, locus standi, valuation, estoppel etc. were raised. On merits, it was averred that the plaintiff is resident of Naraingarh, District Ambala and she is not in possession of even an inch of the suit property. It was averred that defendant No.1 is exclusive owner in possession of the suit property, which is a residential house. Defendants No. 2 to 4 are not residing in the suit property and they are residing with their families separately. It was admitted that Mahima Chander was the exclusive owner in possession of the suit property, who died on 17.07.1995. Mahima Chander was not having any son. Though the plaintiff and defendants No. 2 to 4 are daughters of the said deceased, yet during the life time of Mahima Chander, he had executed a legal and valid will, dated 16.01.1995 in favour of his wife Panweshwari Devi in the presence of marginal witnesses in his full senses voluntarily and without any pressure from any one, whereby he bequeathed the suit property in her favour. Therefore, defendant No.1 is exclusive owner in possession of the suit property and the plaintiff and defendants No.2 to 4 have got no right, title or interest in the suit property. Mahima Chander had not given any share out of the suit property to the plaintiff and defendants No. 2 to 4.

Defendant No.1 is an illiterate lady and she could not produce the said will before the revenue authorities for attestation of succession and mutation of will exclusively in her name. The revenue officials had attested inheritance mutation No.190, dated 15.11.1995 illegally in favour of all the legal heirs of Mahima Chander, which is not binding over the right, title or interest of defendant No. 1. The defendant No.1 sought dismissal of the suit as preferred by the plaintiff.

6 Defendants No. 2 to 4 filed their separate written statement, wherein they prayed for dismissal of the suit.

7 Defendant No.1 Panweshwari Devi filed counter claim by seeking declaration to the effect that the counter claimant is exclusive owner in possession of the suit property measuring 179-24 sq. mts. on the basis of will, dated 16.01.1995 and inheritance mutation No. 190, dated 15.11.1995 attested in favour daughters of Mahima Chander is wrong, illegal and liable to be quashed and set aside. It was prayed that revenue entries based on illegal mutation be declared as null and void with a consequential relief of permanent injunction restraining the defendants from causing any kind of interference or alienating any part of the suit land.

8 The plaintiff filed replication(s) to the written statement(s) filed by defendants and reiterated the averments

as made in the plaint. The plaintiff also filed written statement to the counter claim preferred by defendant No.1.

9 The learned trial court on 27.8.2016 framed the following issues:-

1. Whether the plaintiff is entitled to 1/5th share in the suit land, as claimed?...OPP
2. Whether suit is not maintainable in the present form, as alleged?...OPD
3. Whether the entire suit property has been surrendered by defendant No. 1 by way of a Will, as alleged?...OPD
4. Whether the plaintiff has no locus standi to file the present suit, as alleged?...OPD
5. Whether suit is not properly valued for the purpose of Court fee and jurisdiction, as alleged? ..OPD
6. Relief.

10 The learned trial court directed the parties to adduce evidence in support of their contentions to corroborate their respective case and ultimately, the learned trial court vide its judgment and decree dated 17.01.2020 decreed suit of the plaintiff/respondent No.1, whereas counter claim as filed by appellant/defendant No.1 was dismissed.

11 Feeling dissatisfied, defendant No.1/appellant filed an appeal (C.A. No. 18-N/13 of 2020) in the Court of learned Additional District Judge, Nahan, District Simaur, whereas the

co-defendants Hem Lata, Meena Kumari and Rekha Devi also filed an independent appeal (C.A. No. 18-N/13 of 2023 on 06.03.2020.

12 As admitted by the learned counsel for the parties and as per record, counter claimant/defendant No.1 preferred single appeal against the judgment and decree, as passed by the learned trial court, whereby suit of the plaintiff was decreed and counter claim filed by defendant No.1 was dismissed.

13 The learned first appellate court vide its judgment and decree, dated 17.02.2025 dismissed both the appeals as preferred by defendants No. 1 to 4 respectively.

14 Still feeling aggrieved, defendant No.1 has approached this court by filing instant regular second appeal.

15 With the consent of the parties, the instant appeal is admitted and finally heard on the following substantial question of law:-

Whether the single appeal was maintainable before the learned first appellate court against the judgment and decree as passed by the learned trial court, decreeing the suit as filed by the plaintiff and dismissing the counter claim as filed by defendant No.1?

16 It is contended by Mr. Karan Singh Kanwar, learned counsel for the appellant, that the impugned judgments and

decrees, as passed by the learned Courts below, are erroneous and liable to be quashed and set aside. The Courts below have not appreciated the point in controversy and have wrongly decreed the suit filed by plaintiff. He has further submitted that after accepting the instant appeal, the suit filed by the plaintiff deserves to be dismissed, whereas counter claim filed by the defendant No.1/appellant deserves to be decreed.

17 On the other hand, Mr. Vijender Katoch, learned counsel for plaintiff/respondent No.1 has raised preliminary objection with respect to maintainability of the instant appeal and the appeal, which was preferred before the learned first appellate court. It is contended that the defendant No.1 suffered decree before the learned trial court, whereby suit preferred by the plaintiff was decreed and the counter claim, as preferred by defendant No.1, was dismissed. Learned counsel for the respondent No.1 has contended that the present appellant ought to have preferred two independent appeals against the decreeing of the suit and dismissal of the counter claim. In absence of any separate independent appeal, which was required to be filed before the learned first appellate court, the same was not maintainable and consequently, the instant appeal is not maintainable in its present form.

18 I have heard the learned counsel for the parties and have also gone through the record of the case.

19 Learned counsel for the appellant submits that single appeal filed by defendant No.1 before the learned first appellate court against judgment and decree, as passed by the learned trial court, decreeing of the suit and dismissing the counter claim was very much maintainable. He has contended that defendant No.1 preferred composite appeal before the learned first appellate court, therefore, objection as raised by learned counsel for respondent No.1 is not sustainable in the eyes of law.

20 On the other hand, Mr. Vijender Katoch, Advocate, has vehemently argued that the appeal, as instituted by defendant No.1, before the learned first appellate court was not maintainable in light of the exposition of law as laid down by the Hon'ble Supreme Court as well as Division Bench of this Court. He would submit that in the absence of filing of any independent appeal by defendant No.1 before the learned first appellate court, the appeal preferred by defendant No.1 before the learned first appellate court as well as the instant appeal is not maintainable.

21 As per the provisions of Order VIII Rule 6(A) to 6(G) of the CPC, a defendant, in a suit, may, set up, the counter-

claim against the claim of the plaintiff regarding any right or claim, in respect of a cause of action, accruing to the defendant, against the plaintiff, either before or after the filing of the suit, but before the defendant has delivered his defence or before the time limit for delivering his defence, has expired.

22 As per the provisions of Order VIII Rule 6(A) to 6(G) of the CPC, such counter-claim shall not exceed the pecuniary limits of the jurisdiction of the court as the effect of the cross-suit and Counter Claim will be treated as the plaint, for which, the plaintiff has right to file written statement, and when counter claim has been filed, the Court will pronounce the final judgment, not only in the suit filed by the plaintiff, but in the suit filed by the defendant, i.e., the Counter claim.

23 The provisions of Order VIII Rule 6(A) to 6(G) of the CPC are very clear and are unambiguous and in view of the legal exposition of the law, it is no longer res-integra that the counter claim is the cross suit and dismissal of the counter claim is a decree and the same is appellable.

24 The scope and nature of the Counter Claim have elaborately been discussed by the Hon'ble Supreme Court in ***Jag Mohan Chawla & Anr. Vs. Dera Radha Swami Satsang & Ors, reported in (1996) 4 SCC 699***. Relevant paragraph 5 of the judgment is reproduced as under:-

“5. The question, therefore is: whether in a suit for injunction, counter-claim for injunction in respect of the same or a different property is maintainable? Whether counter-claim can be made on different cause of action? it is true that preceding CPC Amendment Act, 1976, Rule 6 of Order 8 limited the remedy to set off or counterclaim laid in a written statement only in a money suit. By CPC Amendment Act, 1976, Rules 6A to 6G were brought on statute. Rule 6-A(1) provides that a defendant in a suit may, in addition to his right of pleading a set-off under Rule 6, set up by way of counter-claim against the claim of the plaintiff, any right or claim in respect of a cause of action accruing to the defendant against the plaintiff either before or after the filing of the suit but before the defendant has delivered his defence or before the time limited for delivering his defence has expired, whether such counter-claim is in the nature of a claim for damage or not. A limitation put in entertaining the counter-claim is as provided in the proviso to sub-rule (1), namely, the counter-claim shall not exceed the pecuniary limits of the jurisdiction of the Court. Sub-rule (2) amplified that such counter-claim shall have the same effect as a cross-suit so as to enable the Court to pronounce a final judgment in the same suit, both on the original claim and on the counter-claim. The plaintiff shall be given liberty to file a written statement to answer the counter-claim of the defendant within such period as may be fixed by the Court. The counter-claim is directed to be treated, by operation of sub-rule (4) thereof, as a plaint governed by the rules of the pleadings of the plaint. Even before 1976 Act was brought on statute, this Court in Laxmidas Dahyabhai Kabarwala v. Nanabhai case of suit and cross suit by way of counter-claim. Therein, suit was

filed for enforcement of an agreement to the effect that partnership between the parties had been dissolved and the partners had arrived at a specific amount to be paid to the appellant in full satisfaction of the share of one of the partners in the partnership and thereby decree for settlement of accounts was sought. Therein the legal representatives of the deceased partner contended in the written statement, not only denying the settlement of accounts but also made a counter-claim in the written statement for the rendition of accounts against the appellant and paid the court fee as plaint. They also sought a prayer to treat the counter-claim as a cross suit. The trial Court dismissed the suit and the counter-claim. On appeal, the learned Single Judge accepted the counter-claim on a plaint in a cross suit and remitted the suit for trial in accordance with law. On appeal, per majority, this Court had accepted the respondents' plea in the written statement to be a counter-claim for settlement of their claim and defence in written statement as a cross suit. The counter-claim could be treated as a cross suit and it could be decided in the same suit without relegating the parties to a fresh suit. It is true that in money suits, decree must be conformable to Order 20, Rule 18, CPC but the object of the amendments introduced by Rules 6A to 6G are conferment of a statutory right on the defendant to set up a counter-claim independent of the claim on the basis of which the plaintiff laid the suit, on his own cause of action. In sub-rule (1) of Rule 6A, the language is so couched with words of wide width as to enable the parties to bring his own independent cause of action in respect of any claim that would be the subject matter of an independent suit. Thereby, it is no longer confined to money claim or to

cause of action of the same nature as original action of the plaintiff. It need not relate to or be connected with the original cause of action or matter pleaded by the plaintiff. The words "any right or claim in respect of a cause of action accruing with the defendant" would show that the cause of action from which the counter-claim arises need not necessarily arise from or have any nexus with the cause of action of the plaintiff that occasioned to lay the suit. The only limitation is that the cause of action should arise before the time fixed for filing the written statement expires. The defendant may set up a cause of action which has accrued to him even after the institution of the suit. The counter-claim expressly is treated as a cross suit with all the indicia of pleadings as a plaint including the duty to aver his cause of action and also payment of the requisite court fee thereon. Instead of relegating the defendant to an independent suit, to avert multiplicity of the proceeding and needless protection, the legislature intended to try both the suit and the counter-claim in the same suit as suit and cross suit and have them disposed of in the same trial. In other words, a defendant can claim any right by way of a counter-claim in respect of any cause of action that has accrued to him even though it is independent of the cause of action averred by the plaintiff and have the same cause of action adjudicated without relegating the defendant to file a separate suit. Acceptance of the contention of the appellant tends to defeat the purpose of amendment. Opportunity also has been provided under Rule 6-C to seek deletion of the counter-claim. It is seen that the trial Court had not found it necessary to delete the counter-claim. The High Court directed to examine the identity of the property. Even otherwise, it being an independent cause of action,

though the identity of the property may be different, there arises no illegality warranting dismissal of counter-claim. Nonetheless, in the same suit, both the claim in the suit and the counter-claim could be tried and decided and disposed of in the same suit. In Mahendra Kumar v. State of Madhya Pradesh where a Bench of two Judges of this Court was to consider the controversy, held that since the cause of action for the counter-claim had arisen before filing of the written statement, the counter-claim was maintainable. The question therein was of limitation with which we are not concerned in this case. Thus considered we find that there is no merit in the appeal.”

25 Similar view has again been reiterated by a three-judge Bench of the Hon'ble Supreme Court in **Satyender & Ors. Vs. Saroj & Ors., reported in 2022 Live Law (SC) 679**. Relevant paragraph 16 of the judgment is reproduced as under:-

“16. The other finding of Second Appellate Court regarding the counter claim of the defendants on Killa Nos. 6/18 and 23 is, however, correct and is based on right interpretation of Order VIII, Rule 6A of CPC. From the pleadings of the plaintiffs, it is clear that they had never raised any claim on Killa No. 6/18 or Killa No. 23. The defendants in their written statement while denying the rights of the plaintiffs on the land of which particulars had been given by the plaintiffs, quite ingeniously inserted the two Killa Nos. 6/18 and 23, setting a counter-claim on these plots. The Trial Court and the First Appellate Court while dismissing the plaintiffs' suit had allowed this claim for without assigning any reasons. In fact, this counter

claim which was raised by the defendant is barred under Order VIII, Rule 6A of the CPC. Order VIII, Rule 6A reads as under:-

[6A. Counter-claim by defendant.—(1) A defendant in a suit may, in addition to his right of pleading a set-off under rule 6, set up, by way of counter-claim against the claim of the plaintiff, any right or claim in respect of a cause of action accruing to the defendant against the plaintiff either before or after the filing of the suit but before the defendant has delivered his defence or before the time limited for delivering his defence has expired, whether such counter-claim is in the nature of a claim for damages or not: Provided that such counter-claim shall not exceed the pecuniary limits of the jurisdiction of the court. (2) Such counter-claim shall have the same effect as a cross-suit so as to enable the Court to pronounce a final judgment in the same suit, both on the original claim and on the counterclaim. (3) The plaintiff shall be at liberty to file a written statement in answer to the counter-claim of the defendant within such period as may be fixed by the court. (4) The counter-claim shall be treated as a plaint and governed by the rules applicable to plaints. A counter claim can be set up only “against the claim of the plaintiffs”.

Since there was no claim of the plaintiffs regarding Killa No. 6/8 and 23, the defendants were barred to raise any counter claim on these Killa numbers in view of Order VIII, Rule 6A of the CPC as it has nothing to do with the plaintiffs. It is true that a counter claim can be made by the defendant, even on a separate or independent cause of action (Jag Mohan Chawla & Anr. v. Dera Radha Swami Satsang & Ors.). The Legislature permits the institution of a counter claim, in order to avoid multiplicity of litigation. But then it has certain limitations such as that the counter claim cannot exceed the pecuniary limits of the jurisdiction of the court, and that such counter

claim must be instituted before the defendant has delivered his defence or before the time limit for delivering his defence has expired. More importantly, such a counter claim must be against the plaintiff! Evidently, in the present case the counter claim was not against the plaintiffs. Moreover, as the plaintiffs had not claimed any right over the property and the Killa Nos. 6/8 and 23 are not even a part of the suit property described in the plaint by the plaintiffs. Despite the same, such a claim has been allowed against the plaintiffs. In fact, we do not find on record any reply submitted by the plaintiffs against the counter claim. To be fair, such a counter claim should have been excluded in terms of Order VIII, Rule 6C of the CPC. Suffice it to state here that the counter claim set up by the defendants has been rightly rejected by the High Court.”

26 Perusal of the aforesaid judgments reveals that a counter claim is to be treated as a plaint and governed by the same rules as applicable to a plaint. It has been held that a counter claim can be set up only against the claim of the plaintiff; therefore, in substance, a counter claim is in the form of a plaint, and the dismissal of a counter claim is appealable.

27 Coming to the facts and circumstances of the case, learned trial court vide its judgment and decree, decreed the suit of the plaintiff and dismissed the counter claim, as preferred by defendant No.1. In a natural corollary decreeing of

the suit and dismissal of the counter claim show that there were two decrees, one, by virtue of which, the suit of the plaintiff was decreed and another, by virtue of which, counter claim of defendant No.1 was dismissed, and thus, in that eventuality, defendant No.1 was required to file two separate appeals.

28 Therefore, in such circumstances, the material question which arises for determination, before this Court, is whether the learned First Appellate Court can entertain single appeal against decreeing of the suit filed by the plaintiff and dismissal of the counter claim as preferred by defendant No.1 and whether single appeal preferred before the learned first appellate court was maintainable.

29 The said question came up for consideration before the Hon'ble Division Bench of this Court in **Ramesh Chand Vs. Om Raj, 2022(2) Shim. L.C. 1145**, wherein the Hon'ble Division Bench has enumerated certain principles in this regard. Relevant paragraph 42 of the judgment is reproduced as under:-

“42.The principles deducible from the afore-discussed law can be summarized as follows:

(i) When two suits are consolidated and tried together with common issues framed and common evidence led by the parties, resulting in a common judgment and decree, the

same can be subjected to challenge by way of a single appeal at the instance of the aggrieved party;

(ii) Where a single appeal is filed questioning the judgment and decree passed in two suits, which were consolidated and decided by a common judgment, decision of such single appeal, by a common judgment, reversing or modifying the claim in one suit out of the two, can be challenged by the aggrieved party also, in a single appeal.

(iii) When two suits though not consolidated but are decided by a common judgment, resulting into preparation of two separate decrees, the aggrieved party would be required to challenge both of them by filing separate appeals;

(iv) When both the suit and the counter claim are decreed by a common judgment, regardless of whether separate decree has been prepared in the counter claim, both would be required to be challenged by separate appeals;

(v) In a case where two separate appeals are required to be filed against judgment of the suit and the counter claim and if appeal is filed only against one and not against the other, non filing of appeal against such judgment and decree would attach finality thereto and would attract not only the principle of res-judicata but also waiver and estoppel and the judgment and decree not appealed against would be taken to have been acquiesced to by the party not filing appeal;

(vi) When however, two appeals are filed against a common, judgment passed by the trial Court, both by the plaintiff and the defendant, and are disposed of by the first appellate Court by modifying/ reversing/affirming judgment of the trial Court, the aggrieved party, would be required to challenge both by two separate appeals, in absence of which, non- filing of appeal against one shall attract bar of the principles of res-judicata against another.

(vii) Where more than one appeals are required to be filed or are filed and one or more of them are dismissed for

default, delay or any other similar reason, any such situation would attract res-judicata and such dismissal would satisfy the requirement of appeal being heard and finally decided on merits 'in a former suit' for the purpose of attracting principles of resjudicata."

30 Though, the learned counsel, appearing for the defendant No.1/appellant has tried to make out an exception to the aforesaid judgment, however, the said exercise is a futile attempt because the present case is squarely covered by the judgment of Hon'ble Division Bench of this Court (Supra).

31 Keeping in view, the exposition of law as laid down by Hon'ble Apex Court as well as the Division Bench of this Court, on account of non-filing of the separate appeal before the learned First Appellate Court, against the judgment and decree, passed by the learned Trial Court, attracts the principles of res-judicata.

32 The Hon'ble Apex Court in a similar situation in a case from this Court in **SLP (C) D No.59467/2024 titled as Charan Singh versus Ram Saroop, decided on 03.02.2025**, while dealing and deciding the same issue, came to the conclusion that reliance was rightly placed by the First Appellate Court on precedents to hold that a composite appeal was not maintainable in law but, at the same time, the First Appellate Court ought to have borne in mind that Courts exist

for rendering justice albeit in accordance with law. The Hon'ble Apex Court held that once the First Appellate Court found correctly that challenge to the common judgment of the Trial Court had been laid in a composite appeal but it is the requirement of law to file two appeals with separate memorandum of appeal which had not been filed by the appellant, the Court ought to have at least alerted the appellant by making him aware of the requirement of law and giving him the liberty to file a separate memorandum of appeal. Further, it has been held in para-7 of aforesaid judgment that in fact in terms of Order XLI Rule 1 of the CPC, the Appellate Court has the power to even dispense with the requirement of law of filing copy of the impugned judgment twice over if it is part of the memorandum of appeal already filed. It has been held that if even after being alerted the appellant had failed to file a separate memorandum, the First Appellate Court would have been perfectly justified in dismissing the appeal. The Hon'ble Apex Court also held that it is not shown to them that any endeavor was made.

33 From the aforesaid principles of law laid down by the Hon'ble Apex Court, it is clear that the Court is required to alert the appellant regarding the requirement of law and afford him the liberty to file a separate memorandum of appeal. Since

the First Appellate Court in that case failed to do so, the Hon'ble Apex Court examined the judgments of the High Court and the First Appellate Court and remitted the matter back to the First Appellate Court with liberty to the party to file a separate memorandum of appeal in accordance with law.

34 The Hon'ble Apex Court further directed that, in case the appellant files a separate memorandum of appeal, the same shall be registered without limitation and decided in accordance with law.

35 Taking into consideration the legal principle, as laid down by the Hon'ble Supreme Court, this Court is of the opinion that after setting aside the judgment and decree passed by the learned First Appellate Court, the matter is required to be remitted back to the learned First Appellate Court with liberty to defendant No.1/appellant to file an independent appeal within a period of eight weeks from today. Ordered accordingly. Once the appeal is filed, the same shall be registered without limitation and both appeals shall thereafter be decided afresh on their own merits.

36 Consequently, after setting aside the impugned judgment and decree dated, 17.02.2025 passed by the learned first appellate Court, the parties are relegated to the Court of First Appeal.

37 If the present appellant prefers an independent and separate appeal within a period of eight weeks from today, both Civil Appeal No. 18-N/13 of 2020 and the new appeal shall be decided together expeditiously. It is made clear that if the appellant fails to do so within eight weeks from today, she shall lose the benefit of this order.

38 Therefore, the instant appeal is disposed of in the aforesaid terms. The appeal is remitted back to the Court of the learned First Appellate Court by restoring it to its original number, to be decided along with the other appeal, if any, filed by the respondent on or before **19.08.2026**.

39 Parties are directed to remain present before the First Appellate Court on **22.07.2026**

40 Pending application(s), if any, also stands disposed of.

17th June, 2026
(*pankaj*)

(Romesh Verma)
Judge