

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 278 of 2009**

Mahendra Kumar Sahu, S/o. Tikaram Sahu, aged about -37 years, R/o. Nayaganj, Raigarh, Tahsil and District – Raigarh (C.G.)

----Appellant/Plaintiff

Versus

1. Galaxy Associates, Registered office-B -12/112-A, Gauri Ganj, Bhelupura, Varanasi -221010, Branch Office – Near Gopal Mandir, Old Sadar Bazar, Raigarh,

2. Galaxy Gropin Limited, Registered Officer-B-12/112-A, Gauri Ganj, Bhelupura, Varanasi-221010, Branch Officer – Near Gopal Mandir, Old Sadar Bazar, Raigarh

----Respondents/Defendants

For Appellant/Plaintiff : Mr. Rajendra Tripathi, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

15/07/2020

(1) Heard on the question of admission and formulation of substantial question of law in this second appeal under Section 100 of the Code of Civil Procedure, 1908 preferred by appellant/plaintiff against the impugned judgment and decree passed by the first appellate Court affirming the judgment and decree of the trial court dismissing the suit.

(2) Plaintiff's suit for recovery of Rs.18,000/- was dismissed by the trial Court and which has been affirmed by the first appellate Court, against which second appeal has been preferred.

(3) Learned counsel for the appellant submits that concurrent finding recorded by both the courts below that plaintiff is not entitled for the disputed amount of Rs.18,000/-

is perverse and appeal deserves to be admitted for hearing by formulating substantial question of law for determination..

(4) I have heard learned appearing for the appellant and considered his submissions and went through the record with utmost circumspection.

(5) Section 102 of the CPC provides as under :-

“102. **No second appeal in certain cases.** - No second appeal shall lie from any decree, when the subject-matter of the original suit is for recovery of money not exceeding twenty-five thousand rupees.

(6) From careful perusal of the provisions contained in Section 102 of the CPC, it is apparent that the bar contained in Section 102 applies only to the second appeals filed under Section 100 of the CPC and, that too, those second appeals in which the subject-matter of the suit is for recovery of money not exceeding twenty-five thousand rupees. In the instant suit, admittedly the amount recoverable was of Rs.18,000/-, as such, second appeal is expressly barred by Section 102 of the CPC.

(7) Accordingly, the second appeal is dismissed as hit by Section 102 of the CPC. However, the plaintiff is at liberty to proceed in accordance with law. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

D/-

(1) Whether the first appellate Court was justified in granting decree in favour of the plaintiff ignoring the fact that erstwhile owner of the suit land Raja..... and his son..... has already executed a title deed / sale deed dated 28.08.2002 (Ex.D-1) in favour of defendants No. 2 & 3, by recording a finding, which is perverse and contrary to the record ?

(2) Whether the first appellate Court was justified in not remitting the matter after holding that the permission for review was granted without affording opportunity of hearing to the plaintiff by virtue of provisions contained in Section 51 of the C.G. Land Revenue Code,