

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 34 of 2010**

Harsh Kumar Parakh (Jain) S/o. Fakir Chand Jain, aged about 43 years, R/o. And Business in front of Rest House, Bemetara Road, Dhamdha, Tahsil Dhamdha, District Durg (CG)

---- Appellant/Defendant**Versus**

1. Smt. Kiran Jain, W/o. Shri Chandra Kumar Jain, aged about 48 years, House wife R/o. In front of Rest House, Bemetara Road, Dhamdha, Tahsil Dhamdha Distt. Durg (CG)
2. Lalit Kumar Jain, S/o. Shri Fakir Chand Jain, aged about 48 years, R/o. and business in front of Rest House, Bemetara Road, Dhamdha, Tahsil Dhamdha, Distt. Durg (CG)

---Respondents/Plaintiffs

For Appellant	: Shri Shobhit Mishra, Advocate
For Respondents	: Smt. Renu Kochar, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****19.01.2021.**

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellant herein/defendant against the impugned judgment and decree passed by the first appellate Court reversing the judgment and decree passed by the trial Court by which the trial Court dismissed the suit of the plaintiffs for recovery of sum of Rs.43,000/- and the first appellate Court has decreed the suit of the plaintiffs to the tune of Rs.43,000/- along with interest.

2. Learned counsel for the appellant/defendant submits that the first appellate Court has absolutely erred in decreeing the suit of the plaintiffs by

recording a finding which is perverse to the record, therefore, the appeal involves substantial question of law for determination and the appeal may be admitted for hearing by formulating substantial question of law.

3. Heard learned counsel for the appellant, considered his submission and went through the record with utmost circumspection.

4. The first appellate Court after appreciating the oral and documentary evidence, clearly recorded a finding that the boundary wall and porch of the plaintiffs suffered damage to the extent of Rs.43,000/- on account of negligent act of the defendant, therefore, the plaintiffs are entitled for compensation to the extent of Rs.43,000/- along with interest. The finding of the first appellate Court that negligent act of the defendant caused damage to the property of the plaintiffs to the extent of Rs.43,000/- is a finding of fact based on evidence available on record which is neither perverse nor contrary to the record and this second appeal does not involve any substantial question of law to be framed.

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

Sd/-
(Sanjay K. Agrawal)
JUDGE