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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **RSA 3/2024 & CM APPL. 938/2024**

RAJ KUMARI AND ORS

.....Appellant

Through: Mr.Puneesh Garg and Mr.Amit
Kumar, Advs.

versus

MUNNA LAL

.....Respondent

Through: Mr.K.K.Tiwary and Mr.Niraja Singh,
Advs.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

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07.10.2024

1. Learned counsel appearing on behalf of the appellant submits that the Courts below have gravely erred in decreeing the suit and dismissing the first appeal preferred by the appellant as the sole basis for passing of the impugned judgment and decree is the absence of the document being registered.
2. To examine the aforesaid aspect, the Court queried the learned counsel appearing for the appellant as to where, in the written statement filed before the first appellate Court, the aforesaid submission was raised by the appellant. He fairly submits that notwithstanding the objection being raised in the written statement, the same being a legal question can still be raised in the instant appeal.
3. This Court is unable to accept the aforesaid submission, as under Section 100 of the Code of Civil Procedure, 1908, the substantial question of



law must arise under the facts and circumstances of each and every case. The substantial question of law as stipulated under Section 100 of the CPC, 1908, cannot be a general question and must be specific to a particular case.

4. The Supreme Court in the case of ***Santosh Hazari v. Purushottam Tiwari***,¹ while discussing the scope of the substantial question of law to be framed by the second appellate Court, held that for a question of law to be considered "involved in the case", it must be grounded in the pleadings or arise from substantial findings. It was also held that any new legal point introduced for the first time in the appellate court cannot be regarded as involved unless it addresses the core issue of the case. The relevant paragraph is reproduced as under:-

"14. A point of law which admits of no two opinions may be a proposition of law but cannot be a substantial question of law. To be "substantial" a question of law must be debatable, not previously settled by law of the land or a binding precedent, and must have a material bearing on the decision of the case, if answered either way, insofar as the rights of the parties before it are concerned. To be a question of law "involved in the case" there must be first a foundation for it laid in the pleadings and the question should emerge from the sustainable findings of fact arrived at by court of facts and it must be necessary to decide that question of law for a just and proper decision of the case. An entirely new point raised for the first time before the High Court is not a question involved in the case unless it goes to the root of the matter. It will, therefore, depend on the facts and circumstance of each case whether a question of law is a substantial one and involved in the case, or not; the paramount overall consideration being the need for striking a judicious balance between the indispensable obligation to do justice at all stages and impelling necessity of avoiding prolongation in the life of any lis."

5. Therefore, in view of the aforesaid and in absence of the plea being raised in the written statement or during the proceedings before the Trial Court, the Court is unable to find any substantial question of law to have

¹ (2001) 3 SCC 179.



been raised in the instant appeal.

6. Accordingly, the instant appeal along with pending application, stands dismissed.

PURUSHAINdra KUMAR KAURAV, J

OCTOBER 7, 2024/MJ