IN THE HIGH COURT OF JHARKHAND AT RANCHI
Second Appeal No. 107 of 2026

Tara Chand Jain, aged about 67 years, S/o- Late Gyanmal Jain, by faith-Jain, by occupation business of chothes "Paras Textiles", Mahabir Singh Market, Chawk Bazar, Jugsalai, P.O. & P.S. Jugsalai, Town Jamshedpur, District Singhbhum East, Jharkhand .... Appellant

Versus

Satyendra Singh, aged about 50 years, S/o Late Shyam Bahadur Singh, by faith Hindu, by Caste-Rajput, by occupation-business, resident of M.E. School Road, Jugsalai, P.O. & P.S. -Jugsalai, Town-Jamshedpur, District-East Singhbhum, Jharkhand .... Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellant : Mr. Birendra Kumar, Advocate
For the Respondent :

02/16.09.2026 This Second Appeal has been filed being aggrieved with the judgment and decree dated 28.02.2026 (decree signed on 12.03.2026) passed in Civil Appeal No.44 of 2025 by learned District Judge-V, Jamshedpur affirming the judgment and decree dated 27.03.2025 (decree signed on 07.04.2025) passed by the learned Additional Civil Judge (Junior Division), Jamshedpur in Original Suit No.11/2014 .

2. Mr. Birendra Kumar, learned counsel appearing on behalf of the appellant submits that Original Suit No.11/2014 was instituted by the plaintiff/respondent for recovery of possession over suit premises. He submits that the suit was decided in favour of the plaintiff by the judgment dated 27.03.2025 by the learned Additional Civil Judge (Junior Division), Jamshedpur. He next submits that the appellant herein filed Civil Appeal No.44 of 2025 before the District Judge-V, Jamshedpur which was further decided vide judgment dated 28.02.2026 dismissing the said appeal and affirming the judgment of the learned trial court.

3. It transpires from the judgment of the learned trial court that the plaintiff instituted the suit stating that more or less 220 Sq. Ft. situated in the Ground Floor, within the building commonly known as "Mahabir Singh Market, Chowk Bazar, PS- Jugsalai, Town- Jamshedpur, District East Singhbhum, Jharkhand more fully described in the schedule of the plaint. The plaintiff is the lawful owner of the suit premises more fully described in

the schedule of the plaint. The defendant is in occupation of the suit premises as a tenant under the plaintiff where the defendant has been carrying on business of cloths under the name and style of Paras Textile. Presently the defendant is in occupation of the suit premises on a monthly rent of Rs.700/- only besides other charges. The tenancy month of the suit premises used to be calculated according to English calendar month and the rent of each month is payable by the 18th day of the next following tenancy month. The plaintiff on receipt of rent from the defendant and his other tenants used to grant proper rent receipt thereof and in the back side of the counter foil of such rent receipt the defendant also used to put his signature on receipt of the original rent receipt, whenever he used to pay rent for the suit premises, the defendant was very much irregular in payment of monthly rent for the suit premises and is a habitual defaulter. In spite of repeated requests and demands made by the plaintiff, the defendant has not paid rent for the suit premises since the month of August 2011 to September, 2012 and is in arrears of rent amounting to a sum of Rs.9,100/- only from month of August, 2011 to September, 2012. The defendant has also failed and neglected to pay rent for the suit premises for the months of July, September and November, 2013. As the defendant is in arrears of rent of more than two months' rent lawfully payable by him to the plaintiff for the suit premises, which has not been paid or validly remitted by the defendant as such the defendant is a defaulter in the eyes of law and is liable for eviction from the suit premises more fully described in the schedule below. In view of the aforesaid facts and circumstances, the plaintiff is entitled for a decree for recovery of possession of the suit premises more fully described in the schedule of the plaint evicting the defendant there from and for a decree for recovery of a sum of Rs.11,200/- only towards arrears of rent. The cause of action for the suit arose against the defendants on and from 01.11.2011 when the defendant became a defaulter in the eye of law and on other various subsequent dates at Jugsalai, Jamshedpur. For the purpose of court fee and jurisdiction, the suit is valued at Rs.19,600/- (Rs. Nineteen Thousand Six Hundred) only Rs.8,400/- being twelve months rent for eviction) & Rs.11,200/- only (Towards arrears of rent). The plaintiff therefore, prays (a) For a decree for

recovery of possession of the suit premises more fully described in the schedule below evicting the defendant therefrom. (b) For a decree for realization of a sum of Rs.11,200/- only towards arrears of rent against the defendant and in favour of the plaintiff. (c) For a decree for cost of suit. (d) For a decree for any other relief or reliefs to which the plaintiff may be found entitled under the law and equity.

4. Appellant/defendant appeared and filed written statement on 27.02.2015 stating therein that respondent has got no cause of action for the suit and denied the relationship of the landlord and tenant between them and also that the suit is barred under the provision of limitation, bad for mis-joinder and non-joinder of necessary parties and not entitled for the relief as sought for. The suit has been brought by the respondent on false, frivolous and concocted statement and allegation as the respondent is neither the owner, nor the landlord with regard to the suit premises. The suit property standing on the position of the duly vested State properties which is a Haat and daily Bazaar situated on the Revisional Survey Final 1934-37, Plot no. 958 and Khata no. 515, Mouza-Jugsalai, Tauzi Khewat No.1 (One) of Ex. Proprietor Zamindaar- Raja Jagdish Chandra Deb Dhabal Deb of Pargana Dhalbhum; entire Estate & Pargana Dhalbhum duly vested in the State of Bihar after promulgation and Notification of Gazette No. 58 L.R./ZAN dated 12.11.1951 and possession was taken on 19.06.1952, per se, the derived judicial facts of the reported Judgments [two] of the Division Bench of Hon'ble Patna High Court: 1969 (17) BLJR 247 and 1969 (17) BLJR 283. This instant duly vested Haat and daily Bazaar is known as Purana Bazar @ Dhalbhum Raja Market, it is an integral part of the recitals of lease deed for 20 years (Twenty years) bearing Deed No.3350/3351 of 1947 vol. no. 26/47 page no. 15 to 22 Jamshedpur; under the same "Lessor" was Zamindaar-Raja Jagdish Chandra Deb Dhabal Deb of Pargana Dhalbhum and after the stated vesting, instant Haats, in question had become State properties and State is paramount owner since then. Any alleged claim of plaintiff-private party is without ownership or on the strength of void, invalid and inoperative fictitious-forged documents, which holds no water under the law. It is further case of the appellant that the plaintiff is neither known to the defendant, nor he has realized or collect the alleged rent from the

appellant with regard to the suit premises and plaintiff is not entitled for monthly rent of Rs.700/- as payable by the appellant to the respondent who has never realized any rent from the appellant or ever granted rent receipt for the same. The respondent has no right to realize the rent for the said shop premises. The suit has been brought with dishonest intention or wrongful gain on the basis of the manufactured statement after initiation of revenue court proceeding under Misc. Case No. 01 of 2013 by the State of Jharkhand under Section 4(g) of the Bihar Land Reforms Act. Notice to all including the respondent and the appellant has been made for appearance before the court of Land Reforms Duty Collector, Dhalbhum. On that, respondent has preferred to file the present suit with malice intention. In absence of any relationship of landlord and tenant between the plaintiffs and defendant respondent and the appellant, the plaintiff/ respondent is not entitled for any alleged toll or rent since the State is paramount owner after the lawful vesting of this Haat-daily Bazar, in question, hence the appellant/defendant is not liable to be evicted from the duly vested State properties-public premises, only the State is Paramount Owner w. e. f. 12.11.1951.

5. Further the case of the defendant/appellant as per his written statement noted in the judgment of learned courts statement is that the respondent and other heirs of Mahabir Singh with an oblique motive and an illegal and dishonest intention to grab all the shop room situated on the new Plot No. 177 of Khata No.37 within Jugsalai Municipality besides the present one, have filed batches of other eviction suits, within short span, against many other shop owners, who are carrying on business in different shop rooms for more than 60 to 70 years, since Ex. Proprietor Zamindaar- Raja Jagdish Chandra Deo Dhabal Deb Pargana Dhalbhum (already Vested). As a matter of fact, the present Plot No.177 of Khata No. 37, Municipal Ward No.8, Revenue Ward no. 3 of Jugsalai corresponds to Plot No. 958 under Khata No. 516 of survey settlement finally published in the year 1937. The said Khata No.516 was prepared in the name of Raja Jagdish Chandra Deb Dhabal Deb as the landlord which was used as Haat. The said Ex landlord Raja Jagdish Chandra Deb Dhabal Deb granted lease for a period of 20 years on annual rent to M/s. Dhalbhum Traders and Industries Limited, a

joint stock company and Raja Jagdish Chandra Deb Dhabal Deb hold about 90% owned family shares within the said joint stock co. M/s. Dhalbhum Traders and Industries Limited, and his eldest son Narain Chandra Deb Dhabal Deb, was the Chairman of the Board of Directors of the said company. Pursuant to enactment of Bihar Land Reforms Act, the aforesaid Haat known as Purana Bazar, Jugsalai vested in the State of Bihar as per the Notification no. 58LR/ZAN dated 14.11.1951 under section 4 (a) of the said Act and the possession of the said Haat was taken by the state Government on 19.06.1952 becomes free from all encumbrances. The State is the "Paramount Owner" of the suit property by virtue of vesting Zamindari and possession of the same was taken on 19.06.1952 pursuant to government notification no. 58/R dated 14.11.1951. The house rent controller, at Jamshedpur in H.R.C. case no. 35 of 2012 by his 'Final order' dated 17.12.2013/04.08.2014, has been pleased to hold that the legal heirs and successors of Mahabir Singh including respondent have no title over the said Haat. There is no relationship of landlord and tenant between the respondent and the appellant and Jharkhand building (Lease, Rent & Eviction) Act has no application to the duly vested State properties which is a Haat-daily Bazaar Market, in question hence, the defendant/appellant is not liable to vacate the suit premises at the instance of the plaintiff, who is not even entitled to receive tolls of this duly vested Haat and daily Bazaar, and accordingly, not even to pray for a decree on the ground of alleged and created default unless plaintiff ownership is strictly proved. Further, the case of the appellant/defendant is that the suit room was constructed by the deceased father Late Gyanmal Jain of the defendant about more than 80 years ago on his own right, title and interest and possession.

6. Further, the case of the appellant/defendant on the basis of the additional written statement as noted in the argument of learned courts in consonance with the amendment under Order VI Rule 17 of CPC, denying the need of the plaintiff of the suit premises for his personal necessity and his eldest son namely Raja Singh was doing his B. Tech. Engineering in Computer Science Branch from Accurate Institute of Technology & Management College, Greater NOIDA, who has successfully passed out in the year 2017, whereas the present amendment petition has been filed on

2nd February, 2022, after an inordinate delay of five years. The aforesaid facts eloquently go to show that the amendment as sought for by the Plaintiff is based on mala fide, which has been invented for seeking an illegal eviction of the defendant from the suit premises. Sri Raja Singh, the eldest son of the plaintiff, was previously employed as Software Engineer at Crave Info Tech, SAP, Pune, Maharashtra and he joined the aforesaid organization on 4th March, 2019. The said Raja Singh left the said job and joined another Company namely Infosys Private Limited as Sr. SAP Developer since 10th August, 2022, where he has been employed till now. In view of the facts stated above, it is crystal clear that the eldest son of the plaintiff having already been in Infosys Private Limited, Pune and therefore, the allegation of the plaintiff that he requires the suit premises for occupation of his eldest son reasonably and in good faith is altogether a myth. Moreover, the plaintiff and his co-sharers have already got constructed a multi storied building at M.E. School Road, which is hardly 350 meters away from the suit shop. A number of shops on the ground floor has been constructed by the builder and the plaintiff has also his share in the aforesaid shop which is sufficient to meet the alleged requirement of Raja Singh, if at all he needs the premises in good faith. Even according to the plaintiff, the area of the suit shop is only 220 sq. ft. which is hardly sufficient for the eldest son of the plaintiff to carry out the business of sale and supply of computer hardware and software. The alleged requirement of the suit shop as made out by the plaintiff is neither reasonable nor based on bona fide, else the plaintiff would have filed the instant petition five years back. Hence, the claim of the proposed amendment of plaint is absolutely mala fide in nature and the same is liable to be dismissed.

7. Mr. Birendra Kumar, learned counsel appearing on behalf of the appellant submits that the learned trial court as well as the learned appellate court have acted against the ambit of Section 3 of Jharkhand Building (Lease, Rent and Control) Act, 2011 when schedule property belongs to State Government prior to institution of the suit in view of Exhibit D/25. He submits, that is the substantial question of law for admitting the present second appeal. He next submits that the second substantial question of law is that the trial court has overlooked the admitted document

Exhibit D-26 regarding the remittance of rent from the period 28.09.2011 to 19.06.2013. He further submits that these documents have not been properly appreciated and in view of that the present second appeal may kindly be admitted on these two substantial questions of law.

8. The learned trial court while deciding the said original suit, has framed eight issues to decide the said suit. The plaintiff has examined two P.Ws. and the learned trial court has appreciated the evidence of P.W. 1 and P.W. 2 as well as that of D.W. 1, who is the defendant himself and the learned trial court has elaborately dealt with the evidence of both the plaintiff and the defendant. While deciding the Issue No.5, relating to the relationship of landlord and tenant between plaintiff and defendant regarding the suit property, the learned trial court has considered certified copy of Khatiyan of Plot No.177, a, b and c recorded under Khata No.37, Mouza Jugsalai, survey Ward No.3 which is marked as Exhibit 1 and also admitted into evidence the rent receipt which was marked as Exhibit 4. It has been admitted by the defendant in his examination-in-chief in affidavit in para 3 wherein he has stated that he has been carrying the business of cloth under the name and style of "Paras Textile" since the time of his father, who commenced the aforesaid business in the aforesaid shop as tenant under the father of the plaintiff. In view of that the learned court has found that the plaintiff has established relationship with the person whose name is recorded in the Khatiyan and is admitted by the defendant that his father was the tenant of the plaintiff's father and in view of that the said issue was decided in favour of the appellant.

9. While considering the Issue No.6 regarding default in payment of monthly rent for two months from August, 2011 and onwards, the trial court has considered that the plaintiff has stated in para 15 to 17 that the defendant was very much defaulter of payment of monthly rent and had not paid rent since month of August, 2011 to September, 2012 and failed and neglected to pay the rent from July, September and November, 2013. The learned court has considered that the defendant has exhibited three money order coupons for rent for the month of July to September and November, 2013 and that were marked as Exhibit D1/DW-1 and D3/DW-1 with objection and also filed nine money order coupon from the month of

October, 2012 to June, 2013 and that was marked as Ext.D7/DW-2 to D15/DW-2 with objection and the learned court has found that although those documents were filed for money order, however, defendant has failed to give any prove of payment of rent from August, 2011 to September, 2012 and in view of that the learned court has held that the appellant was negligent in his part during this period regarding the payment of the rent. Learned court further found that the shop was required for the plaintiff for his personal necessity as his son was intend to carry a business in the aforesaid schedule property and defendant had taken a plea that plaintiff had taken a aforesaid plea in belated stage after passing eight years and learned court has held that personal necessity and requirement may be arises on later stage and plaintiff is the best person to assess the personal necessity and in view of that the eviction decree has been passed by the learned trial court by the judgment dated 27.03.2025 which has been challenged by the appellant in Civil Appeal No.44 of 2025.

10. The learned first appellate court has further re-appreciated the case of the plaintiff and the defendant and framed additional point in para 8 of the said judgment of the appeal for deciding the said appeal. Learned first appellate court has further re-appreciated the case of both the sides as well as the evidences and the learned appellate court has considered Exhibit D26 and found the facts of the case was known to both sides and the defendant in his evidence and in the appeal has also stated that the portion of the suit premises situated in the ground floor of the building commonly known as Mahavir Singh Market and was there more than sixty years as tenant under the plaintiff and the learned court has found that relationship has been admitted in the evidence of the defendant and that was not in dispute and Issue No.5 has been said to be rightly decided by the learned trial court as has been held by the learned first appellate court. In para 29, the learned appellate court has considered Exhibit D25/DW1 and has further found in para 31 of the judgment that both sides have adduced documentary evidence in support of their contentions in which the plaintiffs has got adduced (1) Certified copy of plot No. 177(a)(b)(c) of Khata No.37 (Ext.1), (2) Certified copy of order dated 16.03.2001 of the Circle Officer, Jamshedpur in Mutation Case No. 675/2000-2001 (Ext.2). C.C. of correction

slip issued by C.O., Jamshedpur for Khata No.37 (Ext.3), Original rent receipt No. 5446926 (Ext.4), counter foil of rent receipt given by the landlord Mahabir Singh and sons in lieu of rent @ 700/-, receipt No. 72 dated 19.07.2010 (Ext.5) contains the signature of Satyendra Singh as a landlord issued in the name of Tara Chand Jain, which also containing the signature of Tara Chand Jain as tenant (Ext.6), receipt No. 80 dated 18.08.2010 containing the signature of Satyendra Singh, the landlord issued in the name of Tara Chand Jain, (Ext.5/a), which also containing the signature of Tara Chand Jain as tenant (Ext.6/a), receipt No. 88 dated 18.09.2010 containing the signature of Satyendra Singh, the landlord issued in the name of Tara Chand Jain (Ext. 5/b), which also contains the signature of Tara Chand Jain as tenant, receipt No. 97 dated 18.10.2010 containing the signature of Satyendra Singh, the landlord issued in the name of Tara Chand Jain, which also containing the signature of Tara Chand Jain as tenant, signature of defendant Tara Chand Jain on counter foil of rent receipt no. 72 dt. 18.07.2010 (Ext.6), signature of defendant Tara Chand Jain on counter foil of rent receipt no. 80 dt. 18.08.2010 (Ext.6/a), signature of defendant Tara Chand Jain on counter foil of rent receipt no. 88 dt. 18.09.2010 (Ext.6/b), signature of defendant Tara Chand Jain on counter foil of rent receipt no. 97 dt. 18.10.2010 (Ext.6/c). The other exhibits have also been considered in para 32 of the judgment of the learned first appellate court. Learned first appellate court has found that the contention of the appellant that the documents have not been substantiated properly regarding payment of rent, was not correct as on appreciating the document Ext.D-1 that is the details of e-money order coupon and date of booking of same day of postal Department consisting various EMOs including date of booking. In para 36 of the judgment, the learned first appellate court has held that the landlord has never acknowledged the payment. While appreciating further evidence in para 37 of the judgment, the learned appellate court has found that even during the pendency of the suit and appeal, the defendant was not paying the rent and has held that the appellant/defendant was at fault. While deciding another point, the learned appellate court has also found that the property was necessary for the personal use of the plaintiff as the son of the plaintiff has completed

B.E. Engineering course in Computer Science branch from Accurate Institute of Technology and Management College and pass out in the year 2017 and he was intend to start his own independent business and the said finding has also been held by the first appellate court in favour of the plaintiff.

11. In view of the above, it transpires that the learned trial court and the learned first appellate court have rightly appreciated the facts and law and has given concurrent finding. It is well settled that once substantial question of law is made, in light of section 100 of the CPC, then only the second appeal can be admitted. It has been held in the case of ***Hamida v. Mohd. Khalil***, reported in **(2001) 5 SCC 30** that while exercising jurisdiction under Section 100 CPC, the High Court cannot reverse the findings of the first appellate court on facts merely on the ground that on the facts found by the first appellate court another view was possible. Further, it is well settled that the High Court is not required to re-appreciate the evidences at this stage when there is concurrent finding of two learned courts on the facts. Reference may be made to ***Kondiba Dagadu Kadam v. Savitribai Sopan Gujar*** reported in **(1999) 3 SCC 722** and referred paragraph nos. 3 to 6 of the said judgment, which are quoted below:

> *3. After the amendment a second appeal can be filed only if a substantial question of law is involved in the case. The memorandum of appeal must precisely state the substantial question of law involved and the High Court is obliged to satisfy itself regarding the existence of such a question. If satisfied, the High Court has to formulate the substantial question of law involved in the case. The appeal is required to be heard on the question so formulated. However, the respondent at the time of the hearing of the appeal has a right to argue that the case in the court did not involve any substantial question of law. The proviso to the section acknowledges the powers of the High Court to hear the appeal on a substantial point of law, though not formulated by it with the object of ensuring that no injustice is done to the litigant where such a question was not formulated at the time of admission either by mistake or by inadvertence.*
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> *4. It is not within the domain of the High Court to investigate the grounds on which the findings were arrived at, by the last court of fact, being the first appellate court. It is true that the lower appellate court should not ordinarily reject witnesses accepted by the trial court in respect of credibility but even where it has rejected the witnesses accepted by the trial court, the same is no ground for interference in second appeal when it is found that the appellate court has given satisfactory reasons for doing so. In a case where from a given set of circumstances two inferences are possible, one drawn by the lower appellate court is binding on the High Court in second appeal. Adopting any other approach is not permissible. The High Court cannot substitute its opinion for the opinion of the first appellate court unless it is found that the conclusions drawn by the lower appellate court were erroneous being contrary to the mandatory provisions of law applicable or its settled position on the basis of pronouncements made by the Apex*

Court, or was based upon inadmissible evidence or arrived at without evidence.

6. If the question of law termed as a substantial question stands already decided by a larger Bench of the High Court concerned or by the Privy Council or by the Federal Court or by the Supreme Court, its merely wrong application on the facts of the case would not be termed to be a substantial question of law. Where a point of law has not been pleaded or is found to be arising between the parties in the absence of any factual format, a litigant should not be allowed to raise that question as a substantial question of law in second appeal. The mere appreciation of the facts, the documentary evidence or the meaning of entries and the contents of the document cannot be held to be raising a substantial question of law. But where it is found that the first appellate court has assumed jurisdiction which did not vest in it, the same can be adjudicated in the second appeal, treating it as a substantial question of law. Where the first appellate court is shown to have exercised its discretion in a judicial manner, it cannot be termed to be an error either of law or of procedure requiring interference in second appeal. This Court in Reserve Bank of India v. Ramkrishna Govind Morey [(1976) 1 SCC 803 : AIR 1976 SC 830] held that whether the trial court should not have exercised its jurisdiction differently is not a question of law justifying interference.

12. In the aforesaid background and considering that there is concurrent finding of two courts and no substantial questions of law is involved in the present second appeal, as such this second appeal cannot be admitted and accordingly, the second appeal, is hereby, dismissed. Pending Interlocutory Application, if any, is disposed of.

(Sanjay Kumar Dwivedi, J.)

Dated 16.09.2026

Anit

A.F.R.

Uploaded
28.09.2026