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HIGH COURT OF CHHATTISGARH AT BILASPUR

SA No. 155 of 2018

{Arising out of judgment and decree dated 29-1-2018 in Civil Appeal No.2A/2017 of the District Judge, Jagdalpur, District Bastar}

1. Raghunath, aged about 48 years, S/o Shri Banga, Caste Madiya,

2. Thosle, aged about 43 years, S/o Shri Banga, Caste Madiya,

Both are R/o Bade Parida, Lohandiguda, Jagdalpur, District Bastar (C.G.)

(Defendants No.1 and 2)

... Appellants

versus

1. Handa (Died) Through Legal Representatives

(Plaintiff)

1(A) Balman, S/o Late Ganesh (Grandson of Handa), aged about 35 years, R/o Village Kotgarh, Tahsil Bhanpuri, District Bastar (C.G.)

1(B) Prem, S/o Late Ganesh (Grandson of Handa), aged about 32 years, R/o Village Kotgarh, Tahsil Bhanpuri, District Bastar (C.G.)

1(C) Ayatu, S/o Late Ganesh (Grandson of Handa), aged about 22 years, R/o Village Kotgarh, Tahsil Bhanpuri, District Bastar (C.G.)

1(D) Pawati, D/o Late Ganesh (Grand-daughter of Handa), W/o Arjun, aged about 45 years, R/o Village Jaibel, Tahsil Karpawan, District Bastar (C.G.)

1(E) Sushila, D/o Late Ganesh (Grand-daughter of Handa), aged about 40 years, W/o Shri Suklal, R/o Village Badampara, Chitrakot, Tahsil Londiguda, District Bastar (C.G.)

2. The State of Chhattisgarh, through the District Collector, Jagdalpur, District Bastar (C.G.)

... Respondents

For Appellants	:	Mr. Pushpendra Kumar Patel, Advocate.
For Respondents No.1(A) to 1(E)	:	Mr. Ravipal Maheshwari, Advocate.
For Respondent No.2/State	:	Ms. Binu Sharma, Panel Lawyer.

Single Bench: -
Hon'ble Smt. Sushma Sawant, J.

Judgment On Board

02/11/2026

1. The appellants herein/defendants No.1 & 2 have preferred the present second appeal challenging the judgment and decree dated **29-1-2018** passed by the learned First Appellate Court – **District Judge, Bastar at Jagdalpur** {Presiding Officer – Mr. Ram Kumar Tiwari} in **Civil Appeal No.2A/2017** (Raghunath and another v. Handa and another), whereby affirming the judgment and decree dated **24-12-2016** passed by the learned Trial Court – **3rd Civil Judge Class-I, Bastar at Jagdalpur** {Presiding Officer – Mr. Jitendra Kumar Singh} in **Civil Suit No.99A/2013** (Handa v. Raghunath and two others), the first appeal preferred by the appellants/defendants was dismissed.

2. Heard learned counsel for the appellant **on the question of admission**. Perused the memorandum of appeal, the impugned judgment and decree passed by the first appellate Court, as well as the judgment and decree of the trial Court.

-:Proceedings before the Trial Court:-

3. **Respondent No.1 herein/plaintiff Handa** instituted a Civil Suit before the Trial Court seeking a declaration that the judgment and

decree dated 24-9-2000 passed in Civil Suit No.27-A/2000 (Raghunath and another v. Handa and another), through Lok Adalat, Jagdalpur be declared void. The basis of the suit was that the compromise allegedly filed before the Lok Adalat in his name and bearing his purported signatures had never been entered into by him, nor did the signatures appearing on the compromise belong to him. In support of his case, **respondent No.1/plaintiff Handa** examined a handwriting expert to establish that the signatures appearing on the compromise were not of himself.

4. Upon conclusion of the trial and after considering the evidence adduced by the parties, the Trial Court found the respondent/ plaintiff's case proved and decreed the suit, declaring the judgment and decree passed through Lok Adalat in the aforesaid civil suit void and further declaring that the same was not binding upon respondent No.1/plaintiff.

-:Judgment and Finding of the First Appellate Court:-

5. The appellants herein/defendants No.1 and 2 preferred a first appeal challenging the aforesaid judgment and decree passed by the Trial Court. However, by the impugned judgment, the First Appellate Court dismissed the appeal, observing that the case had earlier been remanded once and the defendants were afforded two opportunities to file their written statement and contest the proceedings. Despite such opportunities, they failed to file their written statement and remained ex parte. In these circumstances, the contention that they

were not afforded an adequate opportunity to present their case, was found to be untenable. The First Appellate Court further observed that the defendants' failure to file a written statement and their continued silence, despite having sufficient opportunity, warranted an adverse inference against them.

-:Argument of the Appellants/Defendants No.1 & 2 on Admission :-

6. Learned counsel for the appellants/defendants No.1 and 2 submits that the First Appellate Court has erred in affirming the judgment and decree passed by the Trial Court without properly appreciating the facts and evidence available on record. It is further contended that the suit has been decreed solely on the basis of the testimony of the handwriting expert, without there being any other supporting evidence, and that the appellants were not afforded an adequate opportunity to file their written statement and defend the suit. On the aforesaid grounds, learned counsel seeks admission of the appeal on the proposed substantial questions of law formulated in the memorandum of appeal.

-:Finding of this Court on Admission:-

7. Considered the submissions and perused the record.

8. At the outset, it is pertinent to note that the jurisdiction of this Court under Section 100 of the Code of Civil Procedure is confined to cases involving a substantial question of law. The existence of such a question is a condition precedent for entertaining a second appeal.

In the matter of ***Santosh Hazari v. Purushottam Tiwari (deceased) By LRs*****, (2001) 3 SCC 179**, the Supreme Court has held that the existence of a substantial question of law is the sine qua non for exercise of jurisdiction under Section 100 of the CPC.

9. Further, in the matter of ***Hero Vinoth (Minor) v. Seshammal*****, (2006) 5 SCC 545,** the Supreme Court has explained the distinction between a question of law and a substantial question of law and held that a substantial question of law must be one which materially affects the rights of the parties and is not merely a question of fact or a settled proposition of law applied to the facts of the case.

10. In the matter of ***Nazir Mohamed v. J. Kamala and others*****, (2020) 19 SCC 57**, the Supreme Court has reiterated that the High Court, while exercising jurisdiction under Section 100 of the CPC, cannot re-appreciate the evidence as a first appellate Court or interfere with concurrent findings of fact merely because another view is possible.

11. Recently, in the matter of ***U. Sudheera and others v. C. Yashoda and others*****, (2025) 4 SCC 215**, the Supreme Court has reiterated that a second appeal is maintainable only when the Court is satisfied that the case involves a substantial question of law and, in the absence of such a question, the appeal ought to be dismissed at the admission stage itself.

12. In the light of the aforesaid settled legal position, this Court has examined the grounds raised in the memorandum of appeal and the proposed substantial questions of law in the context of the findings recorded by both the Courts below. In the present case, the Trial Court has afforded the appellants/defendants No.1 & 2 an opportunity to contest the respondent/plaintiff's claim by specifically asserting that it was, in fact, plaintiff "Handa" who had entered into a compromise before the Lok Adalat. However, despite having an opportunity to put forward such a defence before the Trial Court, the appellants/defendants No.1 and 2 have failed to do so and remained silent.

13. Having failed to contest the claim at the appropriate stage, they cannot now seek to challenge the compromise merely by raising such a plea in appeal. Both the Courts below have considered the material available on record and recorded well-reasoned findings. The appellants have not been able to demonstrate that such findings suffer from any perversity, misreading or non-consideration of material evidence, or that the Courts below have applied any incorrect legal principle warranting interference under Section 100 of the CPC.

14. The findings are founded upon the evidence available on record and do not disclose any error of law giving rise to a substantial question of law. Accordingly, in view of the principles governing the jurisdiction under Section 100 of the CPC, as discussed herein-above,

this Court is of the considered view that no substantial question of law arises for consideration in the present appeal. Consequently, this Court does not find any ground to admit the appeal.

15. Accordingly, the second appeal is dismissed at the admission stage itself. There shall be no order as to costs.

16. A decree be drawn up accordingly.

Sd/-
(Sushma Sawant)
JUDGE

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