



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

SECOND APPEAL NO.331 OF 2025

APPELLANTS
(Original Defendants)
(On R.A.)

- :-** 1) M/s Nangia Motors,
C-7, MIDC, Hingna, Nagpur.
- 2) Nangia Motors (Branch Fulchur),
Goregaon Road, Gondia

..VERSUS..

RESPONDENT
(Original Plaintiff)
(On R.A.)

- :-** Smt. Reenakaur W/o Surendrasingh Saluja,
Aged about 54 years, Occ. Household, R/o
Raitoli, Gondia, Tah. & Dist. Gondia.

Mr. P.P. Kothari, Advocate for Appellants.
Mr. A.N. Vastani, Advocate for Respondent.

CORAM : **ROHIT W. JOSHI, J.**

DATE : **21/01/2026**

ORAL JUDGMENT :

1. Heard finally with consent of learned counsel for the respective parties.
2. The appellants in the present second appeal are original defendants against whom a decree for payment of money is passed by the learned trial Court, which is confirmed by the learned First

Appellate Court. The respondent is the original plaintiff. Parties will be hereinafter referred to as “plaintiff” and “defendants”.

3. The plaintiff had filed a suit for recovery of money against the defendants, being Special Civil Suit No.62 of 2013.

4. It is the case of the plaintiff that the defendants are engaged in the business of sale and purchase of motor vehicles. The plaintiff stated that on 04.12.2010, she had placed an order for purchase of a vehicle, L.P.T. 1613, bearing RTO Registration No.MH-28/B-7363, for a consideration of Rs.4,75,000/-. She has stated that her offer was accepted by the defendants. The plaintiff further stated that she has deposited a sum of Rs.4,50,000/- with the defendants towards purchase of the vehicle, Rs.10,000/- in cash on 04.12.2010, Rs.40,000/- in cash on 04.12.2010, Rs.3,00,000/- by RTGS on 08.12.2010 and Rs.1,00,000/- by RTGS on 10.12.2010. She has further averred that, in order to complete the sale transaction by making payment of the balance amount of Rs.25,000/- and to have the vehicle transferred in her name, she had visited the office of the defendants on several occasions. She averred that the defendants had agreed to sell the vehicle along with Registration Certificate transfer (RC transfer). She has alleged that despite repeated attempts to complete the transaction, the

defendants did not cooperate, and as such, the transaction could not be completed. She has made avernments that she was in contact with Mr. Rajesh and thereafter with Mr. Mahesh Nangia both of whom were associated with the defendants. She has also given the mobile numbers of these two individuals.

5. The defendants on being served with suit summons, entered appearance and filed their written statement. They did not dispute receipt of the amount of Rs.4,50,000/-. They contended that, in order to complete the formalities of the sale, including recording transfer of the vehicle in the RTO office, the plaintiff was required to pay the balance amount of Rs.25,000/-, which was not tendered by her at any point of time. They stated that the truck agreed to be purchased by the plaintiff was lying in their yard and that she could purchase the same by making payment of the balance amount of Rs.25,000/-.

6. On the basis of rival pleadings, issues were framed, on which the parties led their evidence.

7. The learned Civil Judge Senior Division, Gondia, has decreed the suit by passing a decree for refund of Rs.4,50,000/- along with interest at the rate of 6% per annum from 13.11.2013, i.e., the date of filing of the suit, till realization of the amount.

Aggrieved by the said decree passed by the learned trial Court, the defendants preferred an appeal, being Regular Civil Appeal No.96 of 2017. The said appeal came to be dismissed vide judgment and decree dated 08.09.2025 passed by the learned District Judge-2, Gondia.

8. The said concurrent decrees for payment of money are the subject matter of challenge in the present second appeal. Notice was issued in the appeal vide order dated 01.12.2025 on the following substantial questions of law:-

“(i) Whether this judgment delivered by the learned First Appellate Court warrants interference having regard to undue delay in delivering the judgment?”

“(ii) Whether the plaintiff was breach in agreement on account of failure to pay the entire said consideration?”

SECOND SUBSTANTIAL QUESTION OF LAW:-

“(ii) Whether the plaintiff was breach in agreement on account of failure to pay the entire said consideration?”

9. It is not in dispute that the plaintiff had paid a sum of Rs.4,50,000/- to the defendants out of the total agreed sale consideration of Rs.4,75,000/-, leaving an outstanding amount of Rs.25,000/-. The plaintiff has pleaded that she was regularly in touch with the defendants in order to complete the transaction and

was always ready and willing to pay the balance consideration of Rs.25,000/-. She has also mentioned the names of two officers of the defendants and their cellphone numbers in the plaint.

10. The plaintiff's husband, who entered the witness box on her behalf, reiterated that he was in contact with the said two officers for completing the transaction. The mobile numbers of the said officers are also mentioned in the examination-in-chief. During the course of cross-examination, a suggestion was put to him that on payment of Rs.25,000/-, the defendants were to get the vehicle transferred in the name of plaintiff. The defendants had put a question to him as to whether he was ready to purchase the vehicle since the same was still lying with them. The plaintiff witness answered in the negative, stating that he was not interested in purchasing a vehicle which was lying idle for a period of five to six years.

11. The learned trial Court has held that the plaintiff was ready and willing to complete the transaction. It is observed by the learned trial Court that the plaintiff, who had made payment of Rs.4,50,000/- out of total sale consideration of Rs.4,75,000/-, was in contact with the defendants for completing the transaction. The learned trial Court also observed that although a period of around

two and half years has lapsed, the defendants did not issue a single communication to the plaintiff to come forward to complete the transaction. The learned trial Court has observed that it is difficult to believe that a person who had parted with a sum of Rs.4,50,000/- within a span of around eight days for purchasing of vehicle would not be interested in completing the transaction by making payment of balance amount of Rs.25,000/-. The learned trial Court has blamed the defendants for not taking effective steps for completing the sale transaction. The learned First Appellate Court has also recorded similar findings while dismissing the appeal. Both the Courts have taken into consideration the pleadings in the evidence of the parties while deciding the suit and appeal.

12. It will be pertinent to mention that endorsement of the financier of the vehicle was recorded on the RC Book. The defendants were required to complete the formalities for transfer of vehicle in the name of plaintiff. The No Objection Certificate (NOC) of the financier was necessary for transfer of the vehicle. The defendants did not prove that such NOC was obtained. NOC is not filed on record. This is also a reason for which the learned Courts have held that the defendants failed to take effective steps for transferring the vehicle in favour of plaintiff.

13. The statement in the written statement regarding readiness to transfer the vehicle needs to be appreciated in the light of the fact that the defendants did not produce the NOC from the financier, which was required to transfer the vehicle in favour of the plaintiff. The statement in the written statement that defendants were ready to transfer the vehicle in favour of the plaintiff cannot be accepted since the defendants did not produce the NOC from the financier.

14. The controversy in the matter is in a very narrow compass. The agreement is not in dispute and the fact that the plaintiff has paid a sum of Rs.4,50,000/-, out of Rs.4,75,000/- is also not in dispute. The plaintiff has averred in the plaint and her husband has also deposed in the evidence, that they were constantly in touch with the defendants for completing the transaction. The plaintiff has also named the officers involved and mentioned their mobile numbers. The defendants have not disputed that the said officers were associated with them. In view of such evidence, the learned Courts have found the version of the plaintiff to be more probable and held that the defendants are at fault for the transaction falling apart. The courts have found that the defendants did not take any positive steps, such as issuing communication or intimation to

the plaintiff, to deposit the balance amount. The defendants also did not obtain 'NOC' from the financier for transferring the vehicle

15. The finding recorded by the learned Courts are finding of fact based on appreciation of evidence. Both the learned Courts gave due regard to normal human conduct in holding that the case set up by the plaintiff was more probable as against the defence of defendants. It is well settled that in a civil suit, the plaintiff has to prove his case on preponderance of probabilities. It is also well settled that this Court cannot interfere with the finding of facts, except in cases where such findings are recorded without any evidence or inadmissible evidence or when findings are perverse. Such is not the case in hand. In view of the aforesaid, it needs to be held that the findings recorded by the learned Courts that the plaintiff was willing to complete the transaction and that the defendants are responsible for the transaction not being completed do not warrant any interference at the hands of this Court in an appeal filed under Section 100 of the Code of Civil Procedure. The second question of law is answered in favour of respondent/plaintiff.

FIRST SUBSTANTIAL QUESTION OF LAW:-

i) Whether this judgment delivered by the learned First Appellate Court warrants interference having regard to undue

delay in delivering the judgment?

16. Perusal of the order sheet of Regular Civil Appeal No.96 of 2017 will demonstrate that the arguments were concluded on 03.02.2025 and the judgment is delivered on 08.09.2025. There is a delay of seven months in delivery of judgment. Mr. Kothari, learned Advocate for the appellants places reliance on the judgment of the Hon'ble Supreme Court in the case of ***Kanhaiyalal..vs. Anupkumar***¹, to contend that the delay caused in delivery of judgment is sufficient for allowing the appeal by quashing and setting aside the judgment and decree delivered by the learned District Court.

17. In the said case, the arguments were heard in November, 1990 and judgment was delivered on 07.05.1993. Perusal of the judgment will demonstrate that while setting aside judgment delivered by the High Court, the Hon'ble Supreme Court found that substantial question of law was not framed and the second appeal was not heard on any substantial question of law. Apart from this, there was a delay of around 29 months in delivering the judgment.

18. Mr. Atul Vastani, learned Advocate for the

¹ 2003 AIR(SC) 689

respondent/plaintiff places reliance on judgment of the Hon'ble Supreme Court in the case of *M/s Telestar Travels Pvt. Ltd. and placed ..vs.. Special Director of Enforcement* (Civil Appeal No.1306-1309 of 2013). The Hon'ble Supreme Court has held that delay in delivering judgment by itself is not a sufficient ground for setting aside an order which is otherwise found to be legal, valid, just and proper. The Hon'ble Supreme Court has placed reliance on earlier decision in the case of *Ram Bali ..vs.. State of Uttar Pradesh*². In the present case although there is some delay in delivering the judgment by the learned First Appellate Court, it is found that all the contentions are properly dealt with and the case is decided by delivering a reasoned judgment.

19. Mr. Kothari, learned Advocate for the appellants/defendants contends that the contention that the defendants had stated in the written statement itself that they were ready to transfer the vehicle to the plaintiff subject to payment of Rs.25,000/- is not dealt with by the learned First Appellate Court. It must be stated that the agreement was arrived at in December, 2010. The suit was filed in the year 2013, the written statement is filed on 18.10.2014 i.e. after a period of three years and ten months.

2 (2004) 10 SCC 598

According to the defendants, all this while the truck was lying in the yard. It is understandable that the plaintiff may not want to purchase a vehicle which was lying idle for such inordinate period. In the cross-examination, the plaintiff's witness (husband) specifically stated so. The contention of Mr. Kothari, is therefore liable to be rejected.

20. The First substantial question of law is therefore answered in favour of the respondent/plaintiff holding that the delay in delivering of the judgment has not caused any prejudice and is therefore not a ground for setting aside the judgment and decree.

21. In view of the reasons recorded above, Second Appeal stands **dismissed** with no order as to costs.

(ROHIT W. JOSHI, J.)

C.L. Dhakate