IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No. 28 of 2026

Date of decision:27.10. 2026

Jeevan Singh ...Appellant

Versus

Kaka Singh (deceased) through his LRs & others ...Respondents

Coram:

The Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?[1]

For the appellant : Mr. Rahul Singh Verma, Advocate.

For the respondents : Mr. Surinder Saklani, Advocate, for respondents No.1(a), 1(b)(i) to 1(b)(iii), 1(c), 2 and 3.

Romesh Verma, Judge(oral):

The instant Regular Second Appeal has been filed by the plaintiff-appellant challenging the judgment as passed by the learned Additional District Judge, Paonta Sahib, District Sirmaur, dated 28.08.2025, whereby the appeal as instituted by the plaintiff-appellant came to be dismissed and the judgment and decree as passed by the learned Civil Judge, Court No. 2, Paonta Sahib, District Sirmaur, H.P., dated 29.07.2021 was affirmed, whereby the suit filed by the plaintiff-appellant for declaration was dismissed.

2. The facts as emerges in the present case are that the plaintiff-appellant filed suit for declaration to the effect that he is exclusive owner in possession of the land as per sale deed dated

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

28.11.1977 to the extent of land measuring 06-07 bighas in Khata Khatauni No. 81/109 to 113, Kite 5, measuring 19-2 bighas, situated in Mauza Behrewala, Tehsil Paonta Sahib, District Sirmaur, H.P., and oral sale by defendants on 04.09.1987, along with the consequential relief restraining the defendants from alienating the suit land.

3. As per the case as set up by the plaintiff, he had purchased the land measuring 06-07 bighas out of the land comprised in Khata Khatauni No. 81/109 to 113, Kitte 5, measuring 19-2 bighas, situated in Mauza Behrewala, Tehsil Paonta Sahib, District Sirmaur, H.P. The plaintiff and the defendants are real brothers and on the asking of their father, the plaintiff purchased the land in his own name and in the name of defendants in equal ratio. According to the plaintiff, he paid the entire sale consideration to Shri Beni Prasad and Shri Renuka Prasad and thereafter the sale deed was executed in favour of the plaintiff and defendants in the year 1977. It is the case of the plaintiff that the suit land was never cultivated and possessed by the defendants and it is only the plaintiff who is in exclusive possession of the suit land since 28.11.1977. After the death of the father of the parties, the plaintiff requested the defendants to execute the sale deed of the suit land in his name, but the defendants refused to do the same on one pretext or the other. Therefore, under such circumstances, the plaintiff filed the suit for declaration.

4. The suit came to be resisted by the defendants by filing written statement and all the allegations and averments as made in the plaint were specifically refuted and denied. The defendants prayed for the dismissal of the suit as filed by the plaintiff.

5. Interestingly, the record reveals that after the completion of the pleadings, no issues were framed by the learned trial court and vide its judgment and decree dated 29.07.2021 dismissed the suit as filed by the plaintiff.

6. Feeling dissatisfied, the plaintiff approached the court of learned Additional District Judge, Paonta Sahib on 04.10.2021, who affirmed the findings of the learned trial court and dismissed the appeal as preferred by the plaintiff.

7. Still feeling dissatisfied, the plaintiff has approached this Court by invoking the provisions of Section 100 of the CPC.

8. It is contended by Mr. Rahul Singh Verma, learned counsel for the appellant-plaintiff, that the impugned judgments and decrees as passed by the learned courts below are erroneous and they are required to be quashed solely on the ground that the learned trial court failed to frame the appropriate issues as per the mandate of Order 14 of the CPC. It has been further contended by the learned counsel for the appellant that since the requirement of the Code of Civil Procedure by not framing the appropriate issues has been violated by the learned trial court, therefore, great prejudice has been

caused to the rights of the appellant, as a result of which the findings are required to be quashed and set aside.

9. The learned counsel for the appellant has relied on the judgment of Hon'ble Apex court titled as ***Pramod Shroff vs. Mohan Singh Chopra*, SLP (C) No. 20779 of 2025, dated 16.04.2026**, wherein the Hon'ble Apex court has discussed the point in issue involved in the present case. The relevant extract of the same reads as follows:

> *"16. Order XX Rule 4(2) states that judgments of Courts shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision.*
>
> *"ORDER XX*
>
> *4. Judgments of Small Cause Courts.—(1) Judgments of a Court of Small Causes need not contain more than the points for determination and the decision thereon.*
>
> *(2) Judgments of other Courts.—Judgments of other Courts shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision."*
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> *17. Though, the framing of issues where defendant does not present a defense is not mandated, still the importance of framing of issues cannot be underscored. This Court in the case of Makhan Lal Bangal v. Manas Bhunia and Others1, while stressing upon the importance of framing of issues held it as an imperative stage in any civil proceedings as it narrows down the scope of trial by separating wheat from the chaff. Therefore, the real dispute between the parties is determined and the conflict between the parties is narrowed. The petition may be disposed of at the first hearing if it appears that the parties are not at issue on any material question of law or of fact and the Court may at once pronounce the judgment.*

18. Further, in Ramesh Chand Ardawatiya v.Anil Panjwani, it has been opined that the burden of proof on the Plaintiff is not too heavy in ex parte civil suits. The Plaintiff, however, must show prima-facie proof qua the existence of relevant facts and circumstances out of which the cause of action has arisen. Therefore, evincing that the court proceeds to record evidence of the Plaintiff qua the cause of action and accordingly decrees the suit. Further, it held that in a case which has proceeded ex parte, the court is not bound to frame issues under Order XIV and deliver the judgment on every issue as required by Order XX Rule 5. Yet the trial court should scrutinize the available pleadings and documents, consider the evidence adduced, and would do well to frame the "points for determination" and proceed to construct the ex parte judgment dealing with the points at issue one by one.

19. Furthermore, this Court in Maya Devi v. Lalta Prasad3, has held that in case the Defendant has been proceeded against ex parte, it is the duty of the court to pass the decree only after ascertaining the factual and legal veracity of the claim of the Plaintiff.

20. This Court while considering the essential requirements of a judgment in Balraj Taneja and Another v. Sunil Madan and Another4 has held that Judgment as defined in Section 2(9) of the CPC means the statement given by the Judge of the grounds for a decree or order. What a judgment should contain is indicated in Order XX Rule 4(2) which says that a judgment 'shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision. It should be a self-contained document from which it should appear as to what were the facts of the case and what was the controversy which was tried to be settled by the court and in what manner.

"Points for Determination" – Meaning and Role

21. The points for determination in a judgment are essentially the legal and factual issues the court must resolve. They correspond to the issues framed during trial (Order XIV), but in the judgment they are stated as the point(s) to be decided. In

> *Rameshwar Dayal v. Banda (dead) through his LRs and Another5, the Apex Court explained that 'points for determination' in Rule 4(1) are obviously nothing but 'issues' contemplated by Rules 1 and 3 of Order XIV. In practice, the trial court first frames issues (points of controversy) after examination of pleadings, the judgment then recites these as "points for determination" and answers them. These points focus the judgment on the exact matters in controversy between the parties. By explicitly listing points, the judgment guides the parties and the Appellate court to see what questions were in contest. The court must give its finding on each point. Order XX Rule 5 CPC further reinforces this: if issues have been framed in the suit, the court "shall state its finding or decision, with reasons, upon each separate issue", unless deciding one issue resolves the suit. Thus, points for determination ensure that every controverted issue addressed. A judgment that omits discussion of issues in dispute is defective. It was held that a Small Causes Court judgment which has not even stated the points for determination and given a finding thereon, is obviously not a judgment within the meaning of Section 2(9) of CPC.*
>
> *22. Points for determination are the court's restatement of the disputed questions (issues) that were placed before it, and the judgment must answer each. They serve to concentrate the court's reasoning and ensure completeness of adjudication."*

10. As per the mandate of the judgment as passed by the Hon'ble Apex court, the true scope for framing issues is that evidence let in on issue on which the parties actually went to trial should not be the foundation for decision of another and different issue, which was not present to the minds of the parties and on which they had no opportunity of producing evidence. Relying upon the judgment in ***Sayeda Akhtar vs. Abdul Ahad, (2003) 7 SCC 52***, it was held that

the omission to frame an important issue may sometimes cause prejudice to parties resulting in failure to lead evidence on the point. Therefore, the judgments which have been passed by the learned courts below must be in conformity with the provision of the Code. Thus, provision of Order XX Rule 4 of CPC comes into picture.

11. Settlement of issues and determination of suit on issues of law or on issues agreed upon has been provided in Order XIV of C.P.C., which reads as follows:

> *"1. Framing of issues.-(1) Issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other.*
> *(2) Material propositions are those propositions of law or fact which a plaintiff must allege in Order to show a right to sue or a defendant must allege in Order to constitute his defence.*
> *(3) Each material proposition affirmed by one party denied by the other shall form the subject of distinct issue.*
> *(4) Issues are of two kinds:*
> *(a) issues of fact,*
> *(b) issues of law.*
> *(5) At the first hearing of the suit the Court shall, after reading the plaint and the written statements, if any, and 1[after examination under rule 2 of Order X and after hearing the parties or their pleaders], ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to depend.*
> *(6) Nothing in this rule requires the Court to frame and record issues where the defendant at the first hearing of the suit makes no defence."*

12. Issues are to be framed with regard to those pleadings which are asserted by one party and denied by the other. It is true that

merely non-framing of a particular issue would not be fatal for the adjudication of the case. However, in the case at hand, no issues at all have been framed. This Court is in agreement with the contention as raised by the learned counsel for the appellant that since no issue has been framed, the judgments and decrees as passed are not sustainable.

13. The learned counsel for the respondents fairly admits the legal proposition of law and submitted that the matter can be relegated to the court of learned trial court to decide the case afresh by affording an opportunity to the parties.

14. In view of the mandate as laid down by the Hon'ble Apex court, this Court has no other option but to quash and set aside the judgments and decrees as passed by the learned courts below by relegating the parties to the court of learned Civil Judge, Court No. 2, Paonta Sahib, District Sirmaur, H.P., with a direction to consider and decide the case afresh. Ordered accordingly.

15. The parties undertake to appear before the learned trial court on **18.11.2026**. It is made clear that learned trial court shall issue notice to the respondents and grant them time for completion of pleadings. After the completion of the pleadings, learned trial court shall frame appropriate issues and afford an opportunity to the parties to lead evidence and thereafter shall proceed to decide the case finally.

16. With these observations, the present appeal stands disposed of along with pending application(s), if any.

(Romesh Verma)
Judge

October 27, 2026
(vt)