2026:AHC:208452

HIGH COURT OF JUDICATURE AT ALLAHABAD

SECOND APPEAL No. - 760 of 2026

Pramod Kumar And Another

.....Appellant(s)

Versus

Smt Snehlata

.....Respondent(s)

Counsel for Appellant(s) : Umesh Kumar
Counsel for Respondent(s) :

Court No. - 53

HON'BLE VIKAS BUDHWAR, J.

1. Impugned in the present proceedings at the instance of defendant-appellants is the judgement and order dated 04.12.2024 and the decree dated 18.12.2024 passed by Additional Civil Judge (Senior Division), Court No. 18, Etah in O.S. No. 14 of 2020 (Smt. Snehlata Versus Pramod Kumar and others) whereby the suit instituted by the plaintiff- respondent came to be decreed for specific performance against which Civil Appeal No. 39 of 2026 (Pramod Kumar and others Versus Sneh Lata) came to be preferred by the defendant- appellants before the Additional District Judge Court No. 2, Etah being Civil Appeal No. 39 of 2026 (Pramod Kumar and others Versus Sneh Lata) came to be dismissed on 18.08.2026.

2. Brief facts of the case are that the plaintiff- respondent instituted Original Suit No. 14 of 2020 (Smt. Sneh Lata Versus Pramod Kumar and others) before the Court of Additional Civil Judge (Senior Division), Court No. 18, Etah seeking a decree of specific performance coming up with the stand that the Arazi being Gata No. 369/0.200 Hectare, Mauja Malawan Pargana Sakeet Tehsil and District Etah was owned by the defendant-appellants. The defendant-appellants approached the plaintiff- respondent for execution of a sale deed and the total sale consideration for transfer of the land was Rs. 2,10,000/-. A registered agreement to sell came to be executed, according to which, Rs. 2,00,000 was to be transferred by the plaintiff-respondent to the defendant- appellant at the time of execution of the agreement to sell and residue amount of Rs. 10,000 at the time of execution of the sale deed. As per the plaintiff- respondent, the plaintiff- respondent was willing to get the sale deed executed while making the payment of the residue Rs. 10,000, however, the defendant- appellant did not show any keenness to get the sale

deed executed. A legal notice came to be issued on 08.05.2019 followed by another notice. Allegation is that the plaintiff- respondent went to the office of the Registrar on 20.05.2019 and 07.06.2019, however, the defendant-appellant did not come to the Registrar office and faced with the circumstances, the plaintiff- respondent had no option but to institute O.S. No. 14 of 2020 before the Court of Additional Civil Judge (Senior Division) Court No. 18, Etah. The Trial Court proceeded to frame the following issues:

> 1. Whether the plaintiff is entitled to specific performance of the agreement dated 22.06.2018?
>
> 2. Whether the plaintiff was ready and willing to perform its obligations?
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> 3. Whether the suit is undervalued?
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> 4. Whether sufficient court fees has been paid?
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> 5. Whether the defendant had taken loan of Rs. 2,00,000?
>
> 6. Whether any cause of action arose in favour of the plaintiff to institute the suit?
>
> 7. Relief.

3. The Trial Court decreed the suit 04.12.2024 while coming to the conclusion that the amount of Rs. 2,00,000 so advanced by the respondent to the defendant- appellant was towards specific performance of the contract and the respondent was ready and willing to perform its obligations and the suit came to be decreed.

4. Assailing the same, Civil Appeal No. 39 of 2026 came to be preferred by the defendant- appellant which was rejected on 18.08.2026 by the Court of Additional District Judge Court No. 2, Etah.

5. Questioning both the orders, the judgement and decree of the Trial Court as well as of the Appellate Court, the present appeal came to be preferred.

6. The memo of appeal shows that the defendant- appellant has made the following substantial questions of law:

> *"a) Whether Judgment/order dated 18.08.2026 passed by Additional District Judge, Court No.02, Etah in Civil Appeal No. 39 of 2026*

(Pramod Kumar & Another Vs. Smt. Snehlata) as well as order dated 04.12.2024 passed by the Additional Civil Judge (S.D.), Court No.18 Etah in Original Suit No.14 of 2020 (Smt. Snehlata Vs. Pramod Kumar & Another) its dated as well as decree 18.12.2024 after properly considering the facts?

b) Whether impugned judgment passed by court below is not sustainable in the eye of law?

c) Whether the judgment passed by the learned court below is contrary to the material facts and evidences available on record?

d) Whether under the facts and circumstances of the case the second appeal is liable to be allow?"

7. Learned counsel for the defendant- appellant has submitted that the courts below have committed patent error of law apparent on the face of record while misreading the documents by decreeing the suit and affirming the same in appeal. Submission is that the amount of Rs. 2,00,000 which is stated to have been paid to the defendant-appellant by the plaintiff-respondent was a loan which has nothing to do with agreement to sell. Contention is that the value of the land is much more than Rs. 2,00,000 and even the said amount of Rs. 2,00,000 stood refunded and nothing remains to be paid, thus there was no question of specific performance and the suit itself was not maintainable. It is further contended that the Trial Court as well as the Lower Appellate Court have misconstrued the entire controversy and has proceeded to decree the suit though it was not maintainable. Thus, it is contended that substantial questions of law stands arisen and the present appeal is liable to be entertained and admitted.

8. I have heard the submissions made by counsel for the defendant-appellant and perused the record.

9. Apparently, an Original Suit No. 14 of 2020 came to be instituted by the respondent against the defendant-appellant for specific performance of the contract dated 22.06.2018. The said suit was premised upon the fact that as per the contract dated 22.06.2018, the Gata No. 369/0.200 Hectare was subject matter of agreement to sell for the total sale consideration of Rs. 2,10,000. As per the pleadings, Rs. 2,00,000/- came to be paid by the plaintiff-respondent to the defendant- appellant and Rs. 10,000 was to be paid at the time of the execution of the sale deed. It is alleged that request

was made for getting the sale deed executed and the plaintiff-respondent was ready and willing to perform its obligation but the defendant- appellant did not get the sale deed executed so the subject suit came to be instituted which was decreed by the trial court, appeal whereof preferred by the defendant-appellant was rejected. The Trial Court as well as the Lower Appellate Court had recorded a categorical finding of fact based upon evidences that the theory so propounded by the defendant- appellant that the amount so advanced by the plaintiff- respondent to the defendant- appellant was as a loan was disbelieved and the Trial Court as well as the Lower Appellate Court affirmed the finding that the same was the subject matter of the sale consideration in terms of the agreement to sale. A specific finding has also been recorded that though P.W. 2 and P.W. 3 appeared but the counsel for the defendant- appellant being defendant in the said suit did not examine the same. The only ground taken was that due to the illness of the relatives of the defendant- appellant, he could not get the examination/ cross-examination done. In the wake of the concurrent findings recorded by the Trial Court and the Appellate Court, this Court is not required to go into the factual aspect, particularly, when under Section 100 of the C.P.C. only substantial questions of law are to be considered for admitting and entertaining the appeal.

10. Barring the allegations made, there is nothing on record to show and no evidence is available on record to depict that there happened to be any evidence that the amount of Rs. 2,00,000/- was for the purposes of loan and not in advance in terms of the agreement to sale. A concurrent finding has also been recorded that the plaintiff- respondent was willing and ready to fulfill the obligation and there is no evidence that the amount in question was attributable to loan. No substantial question of law arises so as to entertain the appeal.

11. Accordingly, the appeal is **rejected**.

October 6, 2026
Ashu

(Vikas Budhwar,J.)

Digitally signed by :-
ASHUTOSH KUMAR PRAJAPATI
High Court of Judicature at Allahabad