NEUTRAL CITATION
2026:GUJHC:170

Reserved On : 17/12/2025
Pronounced On : 05/01/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SECOND APPEAL NO. 37 of 2004

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE J. C. DOSHI

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Approved for Reporting	Yes	No
	YES	

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HEIRS L.R. OF DECD. THAKARDAKODARJI VIRAJI & ORS.
Versus
MARWADI CHAMPAKLAL MANGILAL & ANR.

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Appearance:
DECEASED LITIGANT THROUGH LEGAL HEIRS/ REPRESTENTATIVES for the Appellant(s) No. 1.1
MR JV JAPEE(358) for the Appellant(s) No. 1.1.1,1.1.2,1.1.3,1.1.4,1.1.5,1.1.6,1.1.7,1.2,1.3,1.4
MR AM PAREKH(562) for the Respondent(s) No. 1,2

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CORAM:**HONOURABLE MR. JUSTICE J. C. DOSHI**

CAV JUDGMENT

1. The present Second Appeal is preferred under Section 100 of the Code of Civil Procedure, 1908, (for short, the ***Code***) assailing the judgment and order dated 21.02.1995 passed by the learned District Judge, Sabarkantha at Himatnagar in Civil Appeal No. 9 of 1995, whereby the appeal instituted by the respondents came to be partly allowed and the judgment and decree rendered by the learned Civil Judge (Junior Division), Idar in Regular Civil Suit No. 13 of 1987 were partly set aside. For the sake of brevity and convenience, the parties shall hereinafter be referred to in their original nomenclature as they stood before the learned Trial Court.

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2. *Vide* order dated 11.09.2006, following substantial questions of law were framed:-

> "I. Whether on the facts and in the circumstances of the case, the courts below were justified in holding that the defendants could prove that they are in possession of the property in view of Exh. 107, especially when the plaintiffs have brought the circumstances on the record which were making the document unreliable and not credit worthy?.
>
> II. Whether on the facts and in the circumstances of the case, the courts below were justified in holding that the plaintiffs are not in possession of the property, when the plaintiffs have brought positive evidence on the record that they are in possession of the property and the defense set up by the defendants is per-se contrary to records?."

A. BRIEF FACTS:-

3. The appellants, being the original plaintiffs, instituted Regular Civil Suit No.13 of 1987 before the Civil Court (Junior Division), Idar, seeking a decree of permanent injunction in respect of agricultural land bearing Survey No.517 admeasuring 5 Acres 5 Gunthas situated at village Chitroda, Taluka Idar. The suit land was admittedly owned and possessed by deceased Thakarda Kodarji Viraji, whose name, and thereafter the names of the present appellants, stood reflected in the revenue records. The cause for instituting the suit arose when the respondents, on the pretext of recovering an amount allegedly lent to appellant No.1, threatened to dispossess the original plaintiff from the suit land, despite the same not belonging to the said borrower.

3.1. The Trial Court, upon appreciation of the oral and

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documentary evidence on record, decreed the suit by judgment and order dated 26.12.1994 and restrained the respondents from interfering with the appellants' possession over the entire suit land. In appeal, the learned District Judge, Sabarkantha at Himatnagar, by judgment and order dated 27.02.2004 in Regular Civil Appeal No.9 of 1995, partly allowed the appeal by maintaining the injunction only in respect of 2 Acres 5 Gunthas of Survey No.517 and setting aside the injunction qua the remaining 3 Acres. Aggrieved by the said partial reversal of the decree, the appellants have preferred the present Second Appeal.

B. SUBMISSION OF THE APPELLANTS:-

4. Learned advocate for the appellants submits that the learned First Appellate Court has committed a manifest and substantial error in law in partly allowing the appeal and in partly setting aside the well-reasoned judgment and decree passed by the Trial Court. It is contended that the learned Trial Court, upon a holistic and pellucid appreciation of the oral as well as documentary evidence, had rightly recorded a categorical finding regarding the lawful ownership and settled possession of the appellants over the entire suit land and had, therefore, granted a decree of permanent injunction. The learned Appellate Court, while upsetting the said decree in respect of a portion of the land, has neither recorded any cogent reasons nor demonstrated that the findings of the Trial Court were perverse or unsustainable, thereby travelling beyond the permissible contours of appellate jurisdiction.

4.1. It is further submitted that the learned Appellate Court gravely erred in placing reliance upon document Ex.107, purportedly evidencing a sale in favour of the respondents, despite the Trial

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Court having, after an exhaustive analysis, held the said document to be non-genuine and suspicious. The Appellate Court has also erred in reading the deposition of witness Chanchiben in a piecemeal and in truncated manner, laying undue emphasis on an isolated sentence to infer possession of the respondents. If the testimony is read as a whole, it unequivocally emerges that the witness never admitted possession of the respondents and, on the contrary, specifically denied execution of Ex.107. Such selective reading of evidence, it is submitted, vitiates the very process of fact-finding.

4.2. Learned advocate further submits that the Appellate Court has attached undue significance to the non-examination of the original plaintiff and his son, completely overlooking the unimpeached explanation placed on record, namely, the ill health of the original plaintiff, the unsoundness of mind of his son, and the lawful appearance of Chanchiben as a power of attorney holder. The subsequent death of the original plaintiff during the pendency of the suit lends further credence to the explanation offered. Additionally, the consistent revenue entries showing the original plaintiff as owner and cultivator, the production of revenue receipts, and the fact that interim injunction in favour of the appellants was granted and confirmed—which the respondents consciously chose not to press during the pendency of the appeal—clearly establish the settled possession of the appellants. The learned Appellate Court has also failed to appreciate the serious infirmities surrounding document Ex.105, including the misuse of a blank document bearing the thumb impression of an illiterate person, which the Trial Court had rightly disbelieved.

4.3. In view of the aforesaid submissions, it is urged that the

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impugned judgment and decree of the First Appellate Court suffer from substantial errors of law and perversity in appreciation of evidence, warranting interference by this Court. Thus, it is prayed that the present Second Appeal be allowed and the judgment and decree passed by the Trial Court be restored in toto.

C. <u>SUBMISSIONS OF RESPONDENTS:-</u>

5. Learned advocate for the respondents submits that the present Second Appeal is wholly misconceived and does not involve any substantial question of law as envisaged under Section 100 of the Code. The learned First Appellate Court, being the final court on facts, has re-appreciated the entire oral and documentary evidence and has, for cogent and sustainable reasons, partly modified the decree passed by the Trial Court. The findings recorded by the Appellate Court are based on a plausible view of the evidence and cannot be characterised as perverse or unsustainable so as to warrant interference in second appellate jurisdiction.

5.1. It is further submitted that the learned Appellate Court has rightly placed reliance upon document Ex.107, which evidences the respondents' rights over a portion of the suit land, and has corrected the erroneous approach adopted by the Trial Court in discarding the said document on mere suspicion. The Appellate Court has also rightly appreciated the deposition of witness Chanchiben, wherein she stated that the suit was filed to take back possession, which clearly indicates that possession of the disputed portion was not with the appellants. Such an admission, going to the root of the matter, was rightly relied upon and cannot be diluted by reading the testimony selectively.

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5.2. Learned advocate further submits that the non-examination of the original plaintiff and his son was rightly viewed adversely by the Appellate Court. The explanation of ill health and alleged unsoundness of mind was never substantiated by any cogent medical evidence. In such circumstances, the adverse inference drawn is in consonance with settled principles of law, and the testimony of a power of attorney holder cannot substitute the personal evidence of the parties who were best placed to depose on possession and execution of documents.

5.3. It is lastly submitted that the reliance placed on revenue records and interim orders by the appellants is misconceived, as revenue entries do not confer title nor conclusively establish possession, and interim injunctions do not determine final rights. The findings recorded by the Appellate Court are reasoned, based on evidence, and disclose no perversity or substantial error of law. The present Second Appeal, therefore, is an attempt to seek re-appreciation of evidence, which is impermissible. Hence, it is prayed that the Second Appeal be dismissed.

D. ANALYSIS (RE LAW):-

6. Heard learned advocates for both the sides and perused the records.

6.1. At the outset let me refer Section 100 of the CPC, the governing provision for second appeal, it reads as under:-

> "(1) Save as otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie to the High Court from every decree passed in appeal by any Court subordinate to the High Court, if the

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> High Court is satisfied that the case involves a substantial question of law.
>
> (2) An appeal may lie under this section from an appellate decree passed ex parte.
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> (3) In an appeal under this section, the memorandum of appeal shall precisely state the substantial question of law involved in the appeal.
>
> (4) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.
>
> (5) The appeal shall be heard on the question so formulated and the respondent shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:
>
> Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law, not formulated by it, if it is satisfied that the case involves such question."

6.2. Section 100(5) of the Code of postulates that, at the stage of final hearing of a second appeal, the respondent is entitled to contend that the appeal does not involve any substantial question of law. The proviso thereto, however, makes it abundantly clear that nothing contained in the said sub-section shall be construed as limiting or abridging the power of the High Court to hear the appeal, for reasons to be recorded, on any other substantial question of law, even if such question was not formulated at the time of admission.

6.3. In ***Govindaraju v. Mariamman, AIR 2005 SC 108***, the Hon'ble Supreme Court, while delineating the contours of

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jurisdiction of the High Court under Section 100 of the Code, held that such jurisdiction is circumscribed and can be exercised only in relation to substantial questions of law. A question of law would qualify as "substantial" only if it is debatable, not settled by the law of the land or binding precedent, and if its determination has a material bearing on the rights of the parties to the lis.

6.4. In ***Smt. Bismillah Begum (Dead) by LRs v. Rahmatullah Khan (Dead) by Lrs; AIR 1998 SC 970***, the Hon'ble Supreme Court reiterated the well-entrenched principle that findings of fact concurrently recorded by the courts below are ordinarily binding in a second appeal. In a similar vein, in ***Ramanuja Naidu v. V. Kanniah Naidu and Others, JT 1996 (3) SC 164***, the Apex Court held that once the courts of fact have acted upon evidence which is admissible and relevant, the sufficiency or adequacy of such evidence cannot be assailed in a second appeal, as the same falls outside the permissible ambit of interference under Section 100 of the Code.

6.5. Recently in ***Nazir Mohamed v. J. Kamala and Others, Civil Appeal Nos. 2843–2844 of 2010***, wherein, in Para 37, the Apex Court has lucidly and categorically enunciated the legal position in the following terms:-

> "37. The principles relating to Section 100 CPC relevant for this case may be summarised thus:
>
> (i) An inference of fact from the recitals or contents of a document is a question of fact, but the legal effect of the terms of a document is a question of law. Construction of a document, involving the application of any principle of law, is also a question of law. Therefore, when there is misconstruction of a document or wrong application of a

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principle of law in construing a document, it gives rise to a question of law.

(ii) The High Court should be satisfied that the case involves a substantial question of law, and not a mere question of law. A question of law having a material bearing on the decision of the case (that is, a question, answer to which affects the rights of parties to the suit) will be a substantial question of law, if it is not covered by any specific provisions of law or settled legal principle emerging from binding precedents, and, involves a debatable legal issue.

(iii) A substantial question of law will also arise in a contrary situation, where the legal position is clear, either on account of express provisions of law or binding precedents, but the Court below has decided the mat-ter, either ignoring or acting contrary to such legal principle. In the second type of cases, the substantial question of law arises not because the law is still debatable, but because the decision rendered on a material question, violates the settled position of law.

(iv) The general rule is, that High Court will not interfere with the concurrent findings of the Courts below. But it is not an absolute rule. Some of the well-recognised exceptions are where i) the courts below have ignored material evidence or acted on no evidence; ii) the courts have drawn wrong inferences from proved facts by applying the law erroneously; or (iii) the courts have wrongly cast the burden of proof. A decision based on no evidence, does not refer only to cases where there is a total dearth of evidence, but also refers to case, where the evidence, taken as a whole, is not reasonably capable of supporting the finding."

6.6. In the backdrop of the aforesaid contours governing the exercise of jurisdiction in a second appeal, if one reverts to the factual milieu of the case, it emerges that the original plaintiff, Thakarda Kodarji Viraji (since deceased during the pendency of the

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suit proceedings), instituted Regular Civil Suit No. 13 of 1987 seeking the relief of permanent injunction against the defendants, namely Marwadi Champaklal Mangilal and Marwadi Sohanlal Jadavchand. The suit was predicated on the assertion that the plaintiff was the owner and in settled possession of land bearing Survey No. 517, admeasuring 5 Acres and 5 Gunthas, situated at Village Chitroda, Taluka Idar. It was averred that the son of the plaintiff had entered into certain financial transactions with the defendants, pursuant to which some amount remained outstanding in their favour. Allegedly, on 31.01.1987, taking advantage of the said outstanding dues, the defendants attempted to forcibly enter upon and take possession of the suit land. Apprehending dispossession, the plaintiff approached the Civil Court praying for a decree of perpetual injunction restraining the defendants from entering upon the suit land or in any manner disturbing the plaintiff's peaceful possession and enjoyment thereof.

6.7. The defendants, in their written statement, traversed the plaint averments and set up a rival claim of possession by asserting that, upon delineating the topographical particulars of Survey No. 517, the plaintiff had executed an agreement to sell dated 19.06.1986 in their favour after receiving sale consideration of Rs.93,000/-. It was contended that, pursuant to the said agreement, possession of a portion admeasuring 3 Acres and 0 Gunthas of the suit land was handed over to the defendants, and that such possession was protected under Section 53A of the Transfer of Property Act, 1882. According to the defendants, possession was delivered through the son-in-law of the plaintiff, and thereafter the defendants had developed the said parcel of land and had also initiated mutation proceedings. It was further pleaded that since the defendants were

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not agriculturists, they had applied for and obtained requisite permission from the Collector for purchase of the land, whereupon they called upon the plaintiff to perform his part of the contract. Instead of executing the sale deed, the plaintiff, it was alleged, instituted the suit for permanent injunction with a view to defeat the defendants' lawful possession. On these premises, the defendants asserted that the plaintiff was not in possession of the suit land and that the possession of 3 Acres and 0 Gunthas vested in the defendants could not be divested under the guise of a prohibitory injunction.

7. The rival factual assertions advanced by the parties through their respective pleadings culminated in the learned Trial Court crystallising the controversy by framing the following issues for adjudication:-

> "1) Whetner plaintiff proves that he is in Actual physical possession of land S.No.517 of village Chitroda ?
>
> (2) Whether defeddants proved that they are in actual possion of 3 Acre. of land of S.R.No.517 according to agreement Dt. 19-6-86 and there-by Plaintiff and his son has sold it to deft. for which-register sale deed was to be got Registered thereafter ?
>
> (3) Plaintiff is entitled to set the relief as prayed for ?
>
> (4) What order and Decree?"

8. The first issue pertained to whether the plaintiff had succeeded in establishing his actual and physical possession over the entirety of the land bearing Survey No. 517 situated at Village Chitroda. The learned Trial Court answered the said issue in the affirmative. The

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second issue was answered in the negative, whereas the third issue came to be answered in the affirmative. The cumulative effect of the findings recorded on the issues, particularly the answer to the fourth issue, culminated in the grant of a decree of permanent prohibitory injunction in favour of the plaintiff.

9. In the present Second Appeal, this Court is essentially called upon to examine whether the evidence adduced by the plaintiff renders Exhibit 107 unreliable and devoid of evidentiary worth. In this context, a careful scrutiny of the evidence led by the rival parties assumes significance. It is pertinent to note that the plaintiff examined Chhanchiben as PW-1 at Exhibit 68, who deposed as the constituted Power of Attorney holder of the plaintiff. Significantly, the plaintiff himself did not step into the witness box; instead, the Power of Attorney holder was examined, along with certain other witnesses in support of the plaintiff's case.

10. This Court, while evaluating the evidentiary value of such testimony, adverted to and relied upon the exposition of law laid down by the Hon'ble Supreme Court in ***Janki Vashdeo Bhojwani and Another v. Indusind Bank Ltd. and Others [(2005) 2 SCC 217]***, wherein, after an elaborate consideration of the relevant provisions of the Code, the Apex Court delineated the contours and limitations governing the deposition of a Power of Attorney holder. The Court held that a Power of Attorney holder may depose only in respect of acts done by him or matters within his personal knowledge, but cannot depose in place of the principal for acts or transactions to which he was not personally a party or of which he has no personal knowledge. Relevant paras are as under:-

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"15. Apart from what has been stated, this Court in the case of Vidhyadhar vs. Manikrao and Another, (1999) 3 SCC 573 observed at page 583 SCC that:--

"17. where a party to the suit does not appear in the witness-box and states his own case on oath and does not offer himself to be cross-examined by the other side, a presumption would arise that the case set up by him is not correct".

16. In civil dispute the conduct of the parties is material. The appellants have not approached the Court with clean hands. From the conduct of the parties it is apparent that it was a ploy to salvage the property from sale in the execution of Decree.

17. On the question of power of attorney, the High Courts have divergent views. In the case of Shambhu Dutt Shastri Vs. State of Rajasthan, 1986 2WLL 713 it was held that a general power of attorney holder can appear, plead and act on behalf of the party but he cannot become a witness on behalf of the party. He can only appear in his own capacity. No one can delegate the power to appear in witness box on behalf of himself. To appear in a witness box is altogether a different act. A general power of attorney holder cannot be allowed to appear as a witness on behalf of the plaintiff in the capacity of the plaintiff.

18. The aforesaid judgment was quoted with the approval in the case of Ram Prasad Vs. Hari Narain & Ors. AIR 1998 Raj. 185. It was held that the word "acts" used in Rule 2 of Order III of the CPC does not include the act of power of attorney holder to appear as a witness on behalf of a party. Power of attorney holder of a party can appear only as a witness in his personal capacity and whatever knowledge he has about the case he can state on oath but be cannot appear as a witness on behalf of the party in the capacity of that party. If the plaintiff is unable to appear in the court, a commission for recording his evidence may be issued under the relevant provisions of the CPC.

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> 19. In the case of Dr.Pradeep Mohanbay Vs. Minguel Carlos Dias reported in 2000 Vol.102 (1) Bom.L.R.908, the Goa Bench of the Bombay High Court held that a power of attorney can file a complaint under Section 138 but cannot depose on behalf of the complainant. He can only appear as a witness.
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> 20. However, in the case of Humberto Luis & Anr. Vs. Floriano Armando Luis & Anr. reported in 2002 (2) Bom.C.R.754 on which the reliance has been placed by the Tribunal in the present case, the High Court took a dissenting view and held that the provisions contained in order III Rule 2 of CPC cannot be construed to disentitle the power of attorney holder to depose on behalf of his principal. The High Court further held that the word "act" appearing in order III Rule 2 of CPC takes within its sweep "depose". We are unable to agree with this view taken by the Bombay High Court in Floriano Armando (supra).
>
> 21. We hold that the view taken by the Rajasthan High Court in the case of Shambhu Dutt Shastri (supra) followed and reiterated in the case of Ram Prasad (supra) is the correct view. The view taken in the case of Floriano Armando Luis (supra) cannot be said to have laid down a correct law and is accordingly overruled.
>
> 22. In the view that we have taken we hold that the appellants have failed to discharge the burden that they have contributed towards the purchase of property at 38, Koregaon Park, Pune from any independent source of income and failed to prove that they were co- owners of the property at 38, Koregaon Park, Pune. This being the core question, on this score alone, the appeal is liable to be dismissed."

11. Thus, Chhanchiben (PW-1) could not have deposed as a witness on behalf of the plaintiff in substitution of the plaintiff himself. Her testimony could, at best, be appreciated only in her personal capacity and not as a proxy for the plaintiff on the strength

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of a Power of Attorney. The law is well-settled that a Power of Attorney holder cannot depose in the capacity of the principal in respect of facts which are exclusively within the personal knowledge of the principal. In the present case, the plaintiff chose not to enter the witness box to affirm his own case on oath nor did he subject himself to cross-examination on the averments made in the plaint. In such circumstances, an adverse presumption inevitably arises that the case set up by the plaintiff lacks veracity.

11.1. The learned advocate for the appellant sought to contend that the plaintiff was bedridden and of advanced age and, therefore, was unable to step into the witness box. However, no cogent material whatsoever has been placed on record to substantiate such a plea. Significantly, despite the plaintiff's son, Alkhaji Kodarji, being alive, it was the daughter-in-law of the plaintiff who entered the witness box. There is a conspicuous absence of any explanation as to why Alkhaji Kodarji, who was admittedly involved in the underlying financial transactions with the defendant, neither deposed as a witness nor was constituted as a Power of Attorney holder.

11.2. As per the plaintiff's own case, his son Alkhaji Kodarji had entered into certain financial dealings with the defendant, pursuant to which some writing came to be executed, and that Alkhaji Kodarji was indebted to the defendant. The testimony of PW-1, in her examination-in-chief, candidly admits that such writing was indeed executed between her husband and the defendant, thereby lending substantial corroboration to the defence version that an agreement dated 19.06.1986 was executed in respect of the suit land. She further admitted that the transaction was to the tune of Rs.9,000/- and not Rs.93,000/-, as alleged, and also conceded that her father-in-

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law had instituted the suit with a view to recover possession from the defendant.

11.3. These admissions, read in their proper perspective, unmistakably indicate that the defendants were in possession of a portion of the subject land. The cumulative effect of the aforesaid evidence, therefore, belies the plaintiff's assertion of exclusive possession and substantially undermines the foundation of the relief of permanent injunction granted by the learned Trial Court.

11.4. If one closely scrutinizes the findings recorded by the learned Trial Court, it emerges that, at the very threshold, the Court tacitly acknowledged the existence of an agreement executed in the year 1986. However, thereafter, in the absence of any specific pleadings or legally admissible evidence to that effect, the learned Trial Court proceeded to interpret the agreement dated 19.06.1986 to the detriment of the defendants, primarily on the premise that the revenue record stood in favour of the plaintiff. The testimony of the Power of Attorney holder of the plaintiff, coupled with the depositions of three other witnesses examined on behalf of the plaintiff, was cursorily relied upon to arrive at the sweeping conclusion that no agreement dated 19.06.1986 was ever executed. Such an inference, with respect, is wholly unsustainable in law.

11.5. In an unwarranted exercise of conjecture, the learned Trial Court undertook a *suo motu* analysis of Exhibit–107 and declared the document to be suspicious. The Court observed that although the stamp paper of Exhibit–107 was purchased in the name of Kodarji Viraji and bore his signature, the presence of his thumb impression at the foot of the document rendered it doubtful. The Court further

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noticed certain small writings on the reverse of the stamp paper and speculated that the same were made with an intention to complete the writing prior to affixing the thumb impression on a blank stamp paper. Notably, these suspicions were neither founded upon any pleading nor supported by any deposition of the plaintiff or his Power of Attorney holder. The learned Trial Court thus assumed the role of an expert and embarked upon a roving inquiry, which is plainly impermissible.

11.6. Additionally, the learned Trial Court placed reliance upon certain statements allegedly made by the plaintiff before the revenue authorities, despite the fact that no such statements were proved through the testimony of PW-1 or any other witness. In the absence of proof in accordance with law, such statements remain mere assertions devoid of any evidentiary value. The learned Trial Court, while deciding Issue No.2, clearly transgressed the well-defined judicial boundaries by travelling beyond the pleadings and the evidence on record. It appears that the Court allowed itself to be swayed by subjective perceptions regarding the propriety of the transaction, rather than adjudicating the lis on settled legal principles.

11.7. Such findings, in the considered view of this Court, are manifestly perverse, wholly alien to the settled canons of civil adjudication, and contrary to the mandate of the Indian Evidence Act. The learned advocate for the respondents has, with considerable force, demonstrated that the questions framed by the Coordinate Bench do not partake the character of “substantial questions of law” within the meaning of Section 100 of the Code. Nay, even a cursory reading thereof reveals that they are purely questions of fact. The

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present appeal, therefore, appears to have been instituted with the avowed object of securing a third round of fact-finding—a course impermissible in a second appeal. The attempt is nothing but a speculative foray, hoping for yet another throw of the dice, which the law does not countenance.

12. In ***Gurudev Kaur & Others v. Kaki & Others, (2007) 1 SCC 546***, the Hon'ble Supreme Court, while elucidating the legislative intent underlying Section 100 of the Code of Civil Procedure, has held in unequivocal terms that the Legislature, in its wisdom, never envisaged the second appeal to metamorphose into a "*third trial on facts*" or to afford the litigant "*one more throw of the dice in the gamble of litigation*." The object, *inter alia*, was to circumscribe the jurisdiction of the High Court to substantial questions of law of real and enduring significance, and not to permit a reappreciation of evidence as if sitting in appeal over concurrent findings of fact.

13. In the aforesaid conspectus, the respondent has successfully demonstrated that the question of law framed hereinabove does not fall within the contours of a substantial question of law. The parameters delineating what constitutes a substantial question of law have been authoritatively expounded by the Hon'ble Supreme Court in ***Nazir Mohamed (supra)***, which squarely govern the issue at hand.

E. CONCLUSION:-

14. For the reasons aforestated, the present Second Appeal stands **dismissed**.

15. Let the record and proceedings, if received, be forthwith remitted to the learned Trial Court concerned for consequential

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action in accordance with law.

(J. C. DOSHI,J)

MANISH MISHRA