



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3397]

WEDNESDAY, THE EIGHTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

**THE HONOURABLE SRI JUSTICE VENUTHURUMALLI GOPALA
KRISHNA RAO**

SECOND APPEAL NO: 559/2024

Between:

Shaik Baba Fakruddin

...APPELLANT

AND

Y Pedda Kullayamma and Others

...RESPONDENT(S)

Counsel for the Appellant:

1. T V JAGGI REDDY

Counsel for the Respondent(S):

1.

2. P DURGA PRASAD

The Court made the following:

HONOURABLE SRI JUSTICE V. GOPALA KRISHNA RAO

I.A.No.2 of 2024
IN/AND
SECOND APPEAL No.559 of 2024

JUDGMENT:

This second appeal is filed aggrieved against the Judgment and decree dated 20.06.2024 in A.S.No.04 of 2023 on the file of the Judge, Family Court-Cum-VII Additional District Court, Ananthapuramu, confirming the Judgment and decree dated 02.08.2022 in O.S.No.72 of 2020 on the file of the Additional Senior Civil Judge, Ananthapuramu.

2. The appellant herein is the plaintiff and the respondents herein are the defendants in O.S.No.72 of 2020 on the file of the Additional Senior Civil Judge, Ananthapuramu.

3. The plaintiff initiated action in O.S.No.72 of 2020 on the file of the Additional Senior Civil Judge, Ananthapuramu, with a prayer for declaration of title of the plaintiff over the plaint schedule property and to grant permanent injunction restraining the defendants and their men from interfering with the peaceful possession of the plaint schedule property and for cancellation of the registered sale deed dated 18.10.1994, executed in favour of the defendant No.8 and for costs of the suit.

4. The learned Additional Senior Civil Judge, Ananthapuramu, dismissed the suit. Felt aggrieved of the same, the unsuccessful plaintiff in the above said suit filed the aforesaid appeal before the first appellate Court. The

learned Judge, Family Court-Cum-VII Additional District Court, Ananthapuramu, dismissed the first appeal by confirming the judgment and decree passed by the trial Court. Aggrieved thereby, the unsuccessful plaintiff/appellant approached this Court by way of second appeal.

5. For the sake of convenience, both parties in the second appeal will be referred to as they are arrayed in the original suit.

6. The case of the plaintiff, in brief, as set out in the plaint averments in O.S.No.72 of 2020, is as follows:

The plaintiff is the bona fide purchaser of the plaint schedule property and purchased the plaint schedule property for a valid consideration of Rs.25,15,000/- under a registered sale deed dated 20.02.2015 executed by the defendant Nos.1 to 7, and ever since the date of purchase, the plaintiff has been in possession and enjoyment of the plaint schedule property. The plaintiff pleaded that the defendant No.8 herein, in collusion with the defendant Nos.1 to 7, by laying a false claim that they alleged to have purchased the plaint schedule property with the Power of Attorney Holder by name Muddappa, and has shown a fake and fabricated document alleged to have been executed in favour of the defendant No.8 by the said Muddappa. The plaintiff further pleaded that the execution of power of attorney by Muddappa is invalid for the reason that the said Muddappa has got sons and daughters, i.e., the defendant Nos.1 to 7 herein, who have already filed a suit for partition and separate possession of their shares in all the ancestral

properties. The plaintiff pleaded that a Final Decree Petition in I.A.No.1743 of 1995 in O.S.No.438 of 1993 was filed, and the said P. Muddappa was allotted some properties except the properties in Plot Nos.13, 19, 23, 25, 26 and 27.

The plaintiff further pleaded that based on the said allotment, the defendant Nos.1 to 7 have sold the plaint schedule property in favour of the plaintiff on 20.02.2015 and delivered possession to the plaintiff on the same day. The plaintiff further pleaded that the defendant Nos.1 to 7, with a mala fide intention to grab the plaint schedule property, filed the suit without disclosing the sale in favour of the plaintiff in O.S.No.644 of 2012 against the defendant No.8. The plaintiff further pleaded that one Lakshmi Narasamma, under the alleged power of attorney given by Muddappa, who is the father of the defendant Nos.1 to 7, has executed the sale deed in favour of the defendant No.8 in the year 1994, at which time the suit in O.S.No.438 of 1993 was pending before the Principal District Munsif Court for partition and separate possession of the properties, and as Muddappa is not the competent authority to execute the sale deed in favour of the 3rd party, the said sale is not binding on the plaintiff. The plaintiff further pleaded that the defendant No.8, without any manner of right, valid title or possession, made an attempt to disturb the possession of the plaintiff; as such, the plaintiff is constrained to file the present suit for seeking relief of declaration of title and for cancellation of the registered sale deed dated 18.10.1994, said to have been executed in favour of the defendant No.8.

7. The defendant Nos.1 to 8 remained *set-exparte* before the trial Court.

8. On the basis of above pleadings, the learned Additional Senior Civil Judge, Ananthapuramu, framed the following point for trial:

1) Whether the plaintiff is entitled for declaration of his right and title over the plaint schedule property and for consequential permanent injunction against the defendants and also to cancel the Registered sale deed executed in favour of the 8th defendant?

9. During the course of trial in the trial Court, on behalf of the plaintiff, P.W.1 was examined and Exs.A-1 to A-9 were marked.

10. The learned Additional Senior Civil Judge, Ananthapuramu, after conclusion of trial, on hearing the arguments of both sides and on consideration of oral and documentary evidence on record, dismissed the suit. Felt aggrieved thereby, the unsuccessful plaintiff filed the appeal suit in A.S.No.04 of 2023, on the file of the Judge Family Court-Cum-VII Additional District Court, Ananthapuramu, wherein the following point came up for consideration:

1) Whether there are any grounds to interfere with Decree and Order passed learned Additional Civil Judge (Senior Division), Ananthapuramu in O.S.No.72 of 2020 dated 02.08.2022?

The First Appellate Court also framed the following issues for determination:

1. *Whether the plaintiff is entitled for the relief of declaration of title over the suit schedule property?*
2. *Whether the plaintiff has proved his right, possession and enjoyment over the suit schedule property as on the date of filing of the suit consequentially entitled for perpetual injunction as prayed for?*
3. *To what relief?*

11. The learned Judge, Family Court-Cum-VII Additional District Court, Ananthapuramu, i.e., the first appellate Judge, after hearing the arguments, answered the point and issues, as above, against the plaintiff and dismissed the appeal suit filed by the plaintiff. Felt aggrieved of the same, the plaintiff in O.S.No.72 of 2020 filed the present second appeal before this Court.

12. Heard Sri T.V.Jaggi Reddy, learned counsel for the appellant and Sri P.Durga Prasad, learned counsel for the respondents.

13. It has to be kept in mind that the right of appeal is neither a natural nor an inherent right attached to the litigation. It is regulated in accordance with law. A second appeal preferred under Section 100 of C.P.C., could be admitted only when the appellant satisfies the Court that substantial question of law between the parties arise in the case. A proper test for determining whether a question of law raised in the case is substantial would be or whether it directly and substantially affects the rights of the parties and if so, whether it is either an open question in the sense that it is not finally settled by the superior Courts or is not free from difficulty or cause for discussion of

alternative views. In a case of ***Boodireddy Chandraiah v. Arigela Laxmi***¹, the Apex Court held that it is not within the domain of High Court to investigate grounds on which the findings were arrived at by the last Court of fact namely, the first appellate Court. In a case where from a given set of circumstances two inferences of facts are possible, one drawn by the lower appellate Court will not be interfered by the High Court in a second appeal. Adopting any other approach is not permissible. Where, the facts required for a point of law have not been pleaded, a litigant should not be allowed to raise that question as a substantial question of law in second appeal. Mere appreciation of facts, documentary evidence and contents of documents cannot be held to be raising a substantial question of law.

14. The plaintiff having chosen to invoke the jurisdiction of this Court under Section 100 of Civil Procedure Code, it is for him to meet the above principles and satisfy the Court whether there exists any substantial question of law.

15. This second appeal is filed against the concurrent findings arrived by both the Courts below, therefore, the grounds urged in the second appeal are to be scrutinized to find out whether the appellant has shown any substantial question of law. The contention of appellant is that the judgment and decree of the trial Court as well as the first appellate Court are contrary to law and that the second appeal may be allowed by setting aside the judgment and decree passed by both the Courts below i.e. the trial Court and the first appellate Court.

¹ (2007) 8 SCC 155

16. The specific case of the appellant/plaintiff is that he purchased the plaint schedule property for a valid sale consideration of Rs.25,15,000/- under a registered sale deed dated 20.02.2015, said to have been executed by the defendant Nos.1 to 7, and ever since the date of purchase, the plaintiff has been in possession and enjoyment of the same. The plaintiff further pleaded that they came to know that the father of the defendant Nos.1 to 7, by name Muddappa, through a registered General Power of Attorney holder, alienated the plaint schedule plot No.24 in the year 1994 to the defendant No.8 pending the suit for partition filed by the defendant Nos.1 to 7 against their father. The main suit herein filed by the appellant/plaintiff is for seeking relief of declaration of title of the plaintiff and consequential relief of permanent injunction and also cancellation of the registered sale deed said to have been executed by the father of the defendant Nos.1 to 7 in favour of the defendant No.8 on 18.10.1994, vide Doc. No.1079 of 1994.

17. The learned counsel for the appellant would contend that though the respondents/defendants remained *set-exparte* in the suit before the trial Court, both the Courts below dismissed the suit filed by the plaintiff for seeking relief of declaration of title and also cancellation of the sale deed said to have been executed by the father of the defendant Nos.1 to 7 in favour of the defendant No.8. As stated *supra*, the suit is filed for declaration of title in respect of the plaint schedule immovable property; therefore, it is for the appellant/plaintiff to prove his right and title in the plaint schedule property.

18. In a case of ***Union of India & Ors., Vs. Vasavi Co-operative Housing Society Ltd. & Ors.***, the Hon'ble Apex Court held as follows:

“In a suit for declaration of title, burden always lies on the plaintiff to make out and establish a clear case for granting such a declaration and the weakness, if any, of the case set up by the defendants would not be a ground to grant relief to the plaintiff. The legal position, therefore, is clear that the plaintiff in a suit for declaration of title and possession could succeed only on the strength of its own title and that could be done only by adducing sufficient evidence to discharge the onus on it, irrespective of the question whether the defendants have proved their case or not. We are of the view that even if the title set up by the defendants is found against, in the absence of establishment of plaintiff's own title, plaintiff must be non-suited.”

19. In the case at hand, to prove the case of the plaintiff, except examining the plaintiff himself as P.W.1, no other witnesses were examined by the plaintiff. On the ground that the defendants remained *set-exparte* before the trial Court, the suit filed by the plaintiff for declaration of title cannot be decreed unless the plaintiff has proved his title by producing cogent evidence. The plaint averments itself show that there is a cloud on the title of the plaintiff. To prove the vendors' title of the plaintiff, the plaintiff failed to examine his vendors as witnesses before the trial Court.

20. In the plaint itself, it was reiterated that the defendant No.8 herein obtained a registered sale deed from the father of defendant Nos.1 to 7 through a registered General Power of Attorney holder, on 18.10.1994. It is the specific case of the plaintiff that the plaint schedule property and other properties are ancestral properties. The vendors of the plaintiff, i.e., defendant Nos.1 to 7, filed a suit for declaration of title and consequential relief of permanent injunction before the Additional Senior Civil Judge, Anantapur, vide

O.S.No.644 of 2012, the schedule property in the said suit and in the present suit is one and the same, and in the suit in O.S.No.644 of 2012, the vendors of the plaintiff, i.e., the plaintiffs in the said suit, pleaded that their father is managing the suit schedule property as a manager of the joint family, and the said suit is filed against the defendant No.8 herein, and during the pendency of the said suit, the plaintiff herein was added as the defendant No.2 in the said suit. The said suit was dismissed for default in the year 2019, the title of the vendor of the plaintiff, i.e., the defendant Nos.1 to 7, was not yet decided by the competent Court, and the said suit vide O.S.No.644 of 2012 was dismissed for default on 23.12.2019.

21. In the plaint in O.S.No.644 of 2012, it was pleaded that the father of the defendant Nos.1 to 7, i.e., the father of the plaintiffs therein, got the plaint schedule property and other properties under a registered partition deed dated 05.11.1979. The registered sale deed of defendant No.8 is prior sale deed, and admittedly, by that date a preliminary decree of partition between the defendant Nos.1 to 7 and their father vide O.S.No.438 of 1993 was not yet passed, and pending partition suit, the father of the defendant Nos.1 to 7 herein, by name Muddappa, alienated the suit schedule property to the defendant No.8 under a registered sale deed dated 18.10.1994. Ex.A-3 goes to show that the final decree of partition was passed on 06.03.1998, and the said final decree petition was filed in the year 1995. The father of defendant Nos.1 to 7 was alive till 24.12.2010, and he died on 24.12.2010. Admittedly, the father of the defendant Nos.1 to 7, by name Muddappa, has not filed any

suit for cancellation of sale deed dated 18.10.1994 during his lifetime till the year 2010.

22. The defendant Nos.1 to 7 herein are having knowledge that the above registered sale deed was executed by their father through a registered General Power of Attorney holder on 18.10.1994, and the defendant Nos.1 to 7 herein, after the death of their father from the year 2010 onwards till today, have not challenged the registered sale deed dated 18.10.1994, said to have been executed by their father. As noticed supra, the suit filed by the vendors of the plaintiff herein, i.e., the defendant Nos.1 to 7, vide O.S.No.644 of 2012, was dismissed for default in the year 2019, and the title of the vendors of the plaintiff is not even decided by a Civil Court. It was pleaded in the plaint itself that the defendant No.8, in collusion with the defendant Nos.1 to 7, laying a false claim, alleged to have been purchased the suit schedule property, and the alleged collusion is not at all proved by the plaintiff.

23. The case of the appellant/plaintiff is that the suit schedule property is the ancestral property of Muddappa, and the defendant Nos.1 to 7 are the children of the said Muddappa. Even as per the own case of the plaintiff, the father of the defendant Nos.1 to 7, through a registered General Power of Attorney holder, alienated the plaint schedule plot No.24 to the defendant No.8 under a registered sale deed dated 18.10.1994. The title in the plaint schedule property was passed to the defendant No.8 by way of a registered sale deed dated 18.10.1994 by the manager of the Hindu Joint Family, and the vendor of the defendant No.8 died on 24.12.2010. As stated *supra*, during

his lifetime from 1994 to till 2010, the vendor of the defendant No.8 has not challenged the said sale deed, and after the death of their father, the defendant Nos.1 to 7 have also not challenged the said sale deed executed by their father till so far. As noticed supra, Ex.A-4 goes to show that the vendor of the plaintiff, viz., the defendant Nos.1 to 7, filed a suit in O.S.No.644 of 2012 seeking relief of declaration of title against the defendant No.8 herein in the year 2012, the plaintiff herein was also impleaded as the defendant No.2 in the year 2018, and the said suit was dismissed for default on 23.12.2019. In the said suit, the vendor of the plaintiff/the defendant Nos.1 to 7 specifically pleaded about the execution of the registered sale deed by the father of the defendant Nos.1 to 7 in favour of the defendant No.8 herein. The title of the vendors of the plaintiff/the defendant Nos.1 to 7 has not even been decided in O.S.No.644 of 2012. On knowing the entire facts during the pendency of the suit for declaration of title filed by the vendors of the plaintiff, i.e., the defendant Nos.1 to 7 herein executed a sale deed under Ex.A-1 on 20.02.2015.

24. The averments in the plaint in O.S.No.644 of 2012 clearly go to show that the vendor of the plaintiff herein is having very much knowledge about the execution of the registered sale deed dated 18.10.1994 by their father in favour of the defendant No.8, and having knowledge about the same, they approached the Civil Court for seeking relief of declaration of their title vide O.S.No.644 of 2012, pending said suit, and on knowing the entire litigation,

the defendant Nos.1 to 7 executed a registered sale deed on 20.02.2015 in favour of the plaintiff in the present suit.

25. The '*doctrine of bona fide purchaser for a value*' applies in situations where the seller appears to have some semblance of legitimate ownership rights. However, this principle does not protect a subsequent purchaser, if the father of the vendors had already transferred rights in the ancestral property as a manager of the family through a proper sale deed. In the present case, on knowing Ex.A-2 sale deed, the vendors deceitfully executed the 2nd sale deed, twenty six (26) years after the initial transfer by their father, without disclosing the earlier transaction and without any ongoing litigation regarding the property therefore, the subsequent purchaser cannot claim the benefits of a bona fide purchaser. In the present case, the defendant Nos.1 to 7 i.e. the vendors of the plaintiff herein stepped into the shoes of their father and they are having very much knowledge about the sale deed executed by their father. Essentially, if the vendor's rights were already severed by the 1st sale, any later sale deed made without transparency and in bad faith is invalid. The subsequent purchaser, even if unaware of the prior sale, cannot be considered as bona fide, because the vendor no longer had the legal right to sell the property. Thus, the protection afforded by the bona fide purchaser doctrine is nullified by the vendor's deceitful conduct and the pre-existing transfer of rights.

26. Admittedly, the plaintiff herein filed a suit for seeking relief of declaration of title and cancellation of the registered sale deed dated 18.10.1994, and the

suit was instituted in the year 2020, that too after twenty six (26) years of the alleged registered sale deed. The alleged collusion of the defendant Nos.1 to 7 with the defendant No.8, as pleaded by the plaintiff in the plaint, is not at all proved by the plaintiff. In the absence of any proof of collusion, the suit for cancellation of the registered sale deed after twenty six (26) years of the said registered sale deed is not at all maintainable. As noticed supra, though the vendor of the defendant No.8 was alive from 1994 onwards till 2010, he had not filed any suit for cancellation of sale deed, and soon after the death of their father, the defendant Nos.1 to 7 have also not sought cancellation of the said sale deed till date. Unless and until the said registered sale deed dated 18.10.1994 is cancelled, the plaintiff herein cannot get any valid title in the plaint schedule property.

27. The law is well settled that *“the execution of a registered document by itself will not create any new title and the execution or registration of the said document covering any immovable property is governed by the principle **“Nemo dat quod non habet”**, which means **“no person can transfer/pass a better title than what he possess in the property so transferred”**.”* Given the fact that the transfer of an immovable property is governed by the same principle, the registering authority when receives a document and registered it, does not decide the title of the persons executing the document. Therefore, mere registration of the document will not confer any title and in the case of any title disputes arising out of such registrations, they are subject to and decided under the various other laws, governing the transfer of immovable

property. In the case at hand, as noticed supra, the vendor of the defendant No.8, though he was very much alive till the year 2010 from 1994, during his lifetime, he has not challenged the said registered sale deed dated 18.10.1994. Soon after the death of the vendor of the defendant No.8, the children of the said vendor, i.e., the defendant Nos.1 to 7 herein, have also not challenged the said registered sale deed dated 18.10.1994. Therefore, having knowledge about the entire litigation, the defendant Nos.1 to 7 herein alienated the plaint schedule property to the plaintiff. Therefore, the plaintiff will not get any valid title; though he is unaware of the prior sale, it cannot be considered as bona fide, because the vendor no longer had the legal right to sell the property in view of the registered sale deed said to have been executed by their father as a manager of the ancestral property in the year 1994 itself.

28. The plaintiff relied on Ex.A-5 to Ex.A-7. Ex.A-5 is the property tax receipts stands in the name of the plaintiff with regard to D.No.12-5-55-1, the suit schedule property D.No.12-5-55-A. Ex.A-6 is the water tax receipts in respect of the same door number and the electricity bills are marked as Ex.A-7, and Ex.A-8 is the photos. As stated supra, the present suit is filed for declaration of title in respect of the plaint schedule immovable property; therefore, the primary duty of the plaintiff is to prove his valid right and title in the plaint schedule property. Unless and until his valid right and title is proven, the suit filed by the plaintiff for declaration of the title cannot be decreed.

29. Therefore, the learned trial Judge, on appreciation of the entire evidence on record, has rightly dismissed the suit filed by the plaintiff, and the First Appellate Judge also, on re-appreciation of the entire evidence on record, has rightly dismissed the appeal filed by the plaintiff.

I.A.No.2 of 2024:

The plaintiff filed this petition to receive the rectification deed dated 04.09.2024 as additional evidence and to mark the same as Ex.A-10 in O.S.No.72 of 2020. The said application is filed in the year 2024, i.e., during the pendency of the second appeal. The suit is instituted before the learned Senior Civil Judge, Anantapur, by the plaintiff in the year 2020 for seeking relief of declaration of title in the plaint schedule property. On appreciation of the entire evidence on record, the learned trial Judge dismissed the said suit, against which a first appeal has been preferred by the plaintiff before the First Appellate Court, and the said first appeal was also dismissed by the First Appellate Judge. The present second appeal is filed in the year 2024; the document to be received as additional evidence is dated 04.09.2024, which is said to have been obtained during the pendency of the second appeal.

30. Order XLI Rule 27 of the Code of Civil Procedure, 1908 reads as under:

Order XLI- APPEALS FROM ORIGINAL DECREES:

Rule 27:- Production of additional evidence in Appellate Court. - (1) *The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court, But if-*

(a) the Court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or

[(aa) the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed, or]

(b) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause, the Appellate Court may allow such evidence or document to be produced, or witness to be examined.

(2) Wherever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission.

31. The general principle is that the Appellate Court should not travel outside the record of the trial Court and cannot take any evidence in the second appeal. However, as an exception, Order XLI Rule 27 of the Code of Civil Procedure, 1908, enables the Appellate Court to take evidence in exceptional circumstances only. The proviso under Order XLI Rule 27 of the Code of Civil Procedure, 1908, permits the party to produce the additional evidence before the Appellate Court provided it has to come under the ambit of Order XLI Rule 27 of the Code of Civil Procedure, 1908.

32. The petitioner herein is the plaintiff in the suit, and filed the present petition to receive the rectification deed dated 04.09.2024 as additional evidence and to mark the same as Ex.A-10 during the pendency of the second appeal. As noticed supra, the main suit is filed by the plaintiff for seeking relief of declaration of title and also consequential relief of permanent injunction, and also cancellation of registered sale deed dated 18.10.1994,

said to have been executed by the father of the vendors of the plaintiff. Unless and until the said sale deed dated 18.10.1994 is cancelled, the plaintiff herein will not get any valid title. It is also well settled that in the absence of pleading, the evidence, if any, produced by the parties in the second appellate stage cannot be considered. Another important point is that any additional evidence received as additional evidence in the second appellate stage cannot be looked into without any pleading in that record. It is also equally well settled that no party should be permitted to travel beyond its pleading, and that all necessary and material facts shall be pleaded by a party in support of the case set up by it. Having been defeated before the trial Court and First Appellate Court, the appellant herein purposefully, in the second appellate stage, obtained the rectification deed from the defendant Nos.1 to 7. For the aforesaid reasons, I do not find any grounds to allow the present application. Hence, the present interlocutory application is also dismissed.

33. Law is well settled that in the second appeal under Section 100 of the Code of Civil Procedure the High Court cannot substantiate its own opinion unless the Court finds that the conclusions drawn by both the Courts are erroneous being, (i) contrary to the mandatory provisions of the applicable law or (ii) contrary to the law as pronounced by the Apex Court or based on inadmissible or no evidence. Admittedly, in the case on hand, the defendant failed to prove that the conclusions drawn by the First Appellate Court were erroneous being contrary to the mandatory provisions of applicable law or the

conclusions drawn by the First Appellate Court is based on inadmissible in evidence.

34. Having regard to the reasons assigned, this Court is satisfied that the concurrent findings of fact recorded by both the Courts below on all the issues/points against the plaintiff and in favour of the defendant No.8 do not brook interference and that both the Courts below are justified in dismissing the suit filed by the plaintiff. The findings of fact recorded by both the Courts below were based on proper appreciation of evidence and the material on record as and there was neither illegality nor irregularity in those findings and therefore, the findings do not require to be upset. Further, the existence of substantial questions of law is a sine qua non for the exercise of jurisdiction by this Court per Section 100 of Code of Civil Procedure. The questions raised, strictly speaking, are not even pure questions of law, let alone substantial questions of law.

35. Viewed thus, this Court finds that none of the questions raised substantial questions and there is no subsistence in the questions raised and that therefore, the second appeal is devoid of merits and is liable for dismissal are at the stage of admission. The law is well settled that a second appeal shall not be admitted if no substantial questions of law arise for consideration and when no substantial questions of law is involved. The view of this Court is reinforced by the ratio laid down by the Apex Court in the case of **Gurdev**

Kaur Vs. Kaki². In the case on hand, as stated supra, this Court finds after careful examination of the pleadings, evidence and contentions that no substantial question of law is involved, this second appeal is liable for dismissal at the stage of admission, in view of narrow compass of Section 100 of Civil Procedure Code.

36. In the result, I.A.No.2 of 2024 in S.A.No.559 of 2024 is **dismissed** and S.A.No.559 of 2024 is also **dismissed** at the stage of admission, confirming the judgment and decree dated 20.06.2024, in A.S.No.04 of 2023, passed by the learned Judge, Family Court-Cum-VII Additional District Court, Ananthapuramu. Considering the facts and circumstances of the case, each party do bear their own costs in the second appeal.

As a sequel, miscellaneous petitions, if any, pending in the Second Appeal shall stand closed.

V. GOPALA KRISHNA RAO, J.

Date: 08.04.2026

SRT

² AIR 2006 SC 1975