

Hem Raj & Anr. versus Guddi

RSA No. 89 of 2008

Reserved on 13.07.2026

17.07.2026 Present: Mr Ajay Sharma, Senior Advocate, with Mr Atharv Sharma, Advocate for the appellants.

Mr. Lakshay Thakur, Advocate for respondents No.1(a), 1(d), 1(f) and 1(i).

The present appeal was admitted on a substantial question of law No.4 as formulated at page No. 10 of the paper book vide order dated 01.12.2008. It was submitted on behalf of the appellant that the substantial questions of law Nos. 2 and 3 also arise in the present case because the appellant/defendant had taken a specific plea that he had become the owner by way of adverse possession, but no issue was framed in this regard, which caused prejudice to him. Further, the application for additional evidence was decided by the learned Appellate Court before deciding the main appeal, and it was required to be decided along with the appeal in terms of the judgment of the Hon'ble Supreme Court in *State of Rajasthan vs. T.N. Sahani and others (2001) 10 SCC 619*. Therefore, it was prayed that the appeal be also heard on the substantial questions of law Nos. 2 and 3 formulated at page No. 10.

2. Mr Lakshay Thakur, learned counsel for respondents No.1(a), 1(d), 1(f) and 1(i), submitted that the

plea of adverse possession taken by the defendant was without requisite particulars, and the application for additional evidence is not required to be decided along with the appeal.

3. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

4. *Prima facie*, the plea taken that no issue was framed by the learned Trial Court, appears to be correct because it was specifically asserted in para 2 and 3 of the written statement that the defendant had become the owner by way of adverse possession, but no issue was framed. Similarly, the plea that the application for additional evidence is required to be heard along with the main appeal requires adjudication in view of the judgment of the Hon'ble Supreme Court in *T.N. Sahani* (supra). Therefore, it is ordered that the appeal will be heard on the substantial questions of law No.2, 3 and 4 at page No.10 of the paper book.

5. List the matter for hearing in due course.

(Rakesh Kainthla)
Judge

17th July, 2026
(Nikita)