

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
	<u>08.05.2026</u>		<p>SA No.37 of 2026</p> <p><u>Hon'ble Siddhartha Sah, J.</u></p> <p>Mr. Navnish Negi, Advocate for the appellant.</p> <p>Mr. Siddhartha Singh, Advocate for the respondent.</p> <p>The second appeal is preferred against the judgment and decree dated 09.02.2026 passed by the Ist Additional District Judge, Dehradun in Civil Appeal No.72 of 2023, whereby the First Appellate Court reversed the judgment dated 29/04/2023 passed by the IInd Additional Civil Judge (S.D.), Dehradun in Original Suit No.245 of 2006, Vikram Singh Latwal vs. Rajesh Singh Bisht by means of which, the trial court had allowed/decreed the defendant/appellant's counter claim for recovery of possession qua the suit property against the plaintiff/respondent.</p> <p>Learned counsel for the appellant at the outset makes a submission that the present second appeal arises out of non concurrent judgments.</p> <p>He further made the submission that initially the suit for injunction was filed by the plaintiff/respondent seeking injunction against the defendant/appellant with respect to the suit property bearing Khasra No.506/1.</p> <p>The trial court framed as many as 5 issues and by virtue of the judgment and order dated 09.02.2026 while dismissing the suit, allowed/decreed the counter claim preferred by the defendant/appellant.</p> <p>It is next contended by the learned counsel for the appellant that two appeals were filed and Civil Appeal No. 72 of 2023 arises out of the appeal which was preferred by the plaintiff/respondent herein against allowing/decreeing of the counter claim.</p>

Assailing the judgment of the Civil Appeal No.72 of 2023 by virtue of which the first appellate court has allowed the Civil Appeal No.72 of 2023 and has dismissed the counter claim, the learned counsel for the defendant/appellant would submit that counter claim ought to have been allowed for recovery of possession since he had proved the possession based on the documentary and oral evidence and the learned first appellate court committed error in allowing the said appeal.

Per contra, Mr. Siddhartha Singh learned counsel for the plaintiff/ respondent would submit that the plaintiff's rights over property flow from registered sale deed of the year 2003 and as such, the first appellate court has rightly allowed the appeal to the extent whereby allowing of the counter claim by the trial court has been set-aside.

In view of the rival submissions of the learned counsel for the parties and after going through the record, the present second appeal is admitted on the following substantial questions of law:-

“(i) Whether an agreement to sell executed in 1998 (prior to the 2001 amendment to Section 17 of the Registration Act) is admissible in evidence to defend possession under Sections 53A of the TPA, and whether such a document can be used for the **collateral purpose** of proving the nature and date of the appellant's possession under the proviso to **Section 49 of the Registration Act?**”

Summon the Trial Court Record.

List for further consideration on 10.07.2026.

Considering the facts and circumstances of the case, since the appeal is admitted, it is provided that till the next date of listing, parties shall maintain status quo regarding possession over the property in question.

Interim Relief Application No.1 of 2026 stands disposed of accordingly.

(Siddhartha Sah, J.)

08.05.2026

