

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
	<u>07.05.2026</u>		<p>SA No.47 of 2026</p> <p><u>Hon'ble Siddhartha Sah, J.</u></p> <p>Mr. T.A. Khan, Sr. Advocate assisted by Ms. Sheeba Ahmed holding brief of Mr. Vinay Bhatt, Advocate for the appellant.</p> <p>The second appeal is preferred against the judgment and decree dated 02.04.2026 passed by 2nd Additional District Judge, Haldwani, District Nainital in Civil Appeal No.18/2024, by which the learned First Appellate Court has allowed the appeal of the respondent no.1 and has decreed the suit filed by respondent no.1 bearing Civil Suit No.28 of 2021, which was dismissed by the Court of Civil Judge (Junior Division), Haldwani and has set aside the judgment dated 16.01.2024 passed by the Civil Judge (Junior Division), Haldwani.</p> <p>Heard learned senior counsel for the appellant.</p> <p>Initially, the suit was filed by the plaintiff/respondent in the court of Civil Judge (Junior Division)/J.M., Haldwani for relief of permanent injunction <i>qua</i> the vacant piece of land 14X20 feet. Though the defendant initially appeared in the proceedings of trial and file objections against the temporary injunction application, but thereafter did not participate in the further proceedings, hence the suit proceeded <i>ex parte</i> and ultimately the suit was dismissed by the trial court.</p> <p>Aggrieved against the same, the plaintiff filed an appeal before the appellate court which came to be allowed by the first appellate court of the 2nd Additional District Judge, Haldwani, District Nainital. Aggrieved against the judgment dated 02.04.2026, the defendant has preferred this second appeal.</p>

While assailing the impugned judgment and order of the first appellate court, the learned senior counsel for the defendant/appellant would submit that though the case is proceeded *ex parte* the plaintiff was yet to prove his case and he could succeed only on the strength of his own case.

The next submission being advanced on behalf of the learned senior counsel for the defendant/appellant is that the plaintiff did not prove that he is the owner of 14X20 feet disputed land and he is neither the owner nor in possession yet the first appellate court decreed the suit and committed the manifest error of law and thus this second appeal deserves to be admitted.

After considering the submissions of learned senior counsel for the appellant and after going through the record of the impugned judgment and order, the present appeal requires scrutiny.

The second appeal is admitted on the following substantial questions of law: -

“(i) Whether the plaintiff has adduced sufficient and reliable evidence for proving his case as has been held by the first appellate court?”

(ii) Whether the trial court could have ignored and disbelieved the unrebutted oral and documentary evidence against the plaintiff?”

Summon the Trial Court Record.

Issue notice to the respondents. Steps to be taken within a week.

List this case on 10.07.2026.

Till the next date of listing, the status quo shall be maintained on the property in question.

Stay Application (IA No.1 of 2026) stands disposed of accordingly.

(Siddhartha Sah, J.)

07.05.2026

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