



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Second Appeal No. 55/2025

CNR: RJHC021091242024 | URN: CSA / 71U / 2025

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1 Ramrakh Chhipa, Deceased

2 Rameshchand Dhanopia S/o Late Shri Dhannalal Dhanopia, Age Adult, R/o Plot No. 23, Abhiyanta Nagar, Chaurasiyavas Road, Ajmer

3 Sanjeev Nagar S/o Shri Virendralal Nagar, Age Adult, R/o Near Devinathji Temple, Mali Mohalla, Kundan Nagar, Ajmer

4 Dinesh Bandiwal S/o Late Shri Atmaram Bandiwal, R/o House No. 164, Shastri Nagar, Ajmer

5 Pradeep Ajmera S/o Late Shri Badriji Ajmera, Age Adult, R/o Chhipa Gali, Utar Ghaseti, Ajmer

6 Babulal Chhipa S/o Late Shri Nandlal Chhipa, Age Adult, R/o Plot No. 48, Kailashpuri, Kishanganj, Ajmer

7 Dineshchand Jajpura S/o Bajranglal Ji Jajpura, Age Adult, R/o Opposite Microwave Tower, Near Khanna School, Street No. 11, Subhash Nagar, Ajmer

----Appellants

Versus

Municipal Council, Ajmer through Chairman and Commissioner
Municipal Council, Ajmer

----Respondent

For Appellant(s) : Mr. Manish K. Sharma
For Respondent(s) :

HON'BLE MR. JUSTICE MANEESH SHARMA

Order

03/08/2026

1. The present second appeal has been filed by the appellants assailing the judgment and decree dated 08.10.2024 passed by the learned Additional District Judge No. 4, Ajmer, in Civil Appeal No. 541/2014 (146/2010) (CIS No. 541/2014), titled as '*Ramrakh Chhipa & Ors. v. Municipal Council, Ajmer*', whereby the learned



First Appellate Court dismissed the appeal and affirmed the judgment and decree dated 18.03.2010 passed by the learned Civil Judge (Junior Division), City North, Ajmer, in Civil Suit No. 68/2003 titled as '*Ramrakh & Ors. v. Municipal Council, Ajmer*', wherein the suit filed by the appellants for compensation and mandatory injunction was dismissed.

2. The facts germane to the present appeal, in brief, are that the plaintiff-appellants instituted a suit before the learned Trial Court, pleading that the Temple *Shri Laxman Ji Maharaj*, situated near *Ravana Ki Baghichi, Usri Gate*, Ajmer City, was established by the *Chhipa* community, and that properties bearing Nos. 814, 815 and 816, situated in Ward No. 29, Ajmer, belong to the said temple and stand recorded in the records of the Nagar Parishad, Ajmer, in the name of '*Ram Laxman Temple*'. It was averred that the *Nagar Parishad*, Ajmer issued three house tax demand notices dated 16.03.2000, 17.03.2001 and 16.11.2001 amounting to Rs. 70,377/-, in respect of the aforesaid temple properties, to which the plaintiffs submitted their reply. Thereafter, on 31.03.2002, the plaintiffs, through their accountant (*Munim*), deposited the said sum from the rental income of the temple.

2.1. It was further pleaded that the defendant/respondent, with a wrongful and malicious intent, issued the receipt dated 31.03.2002 in the name of the *Agrawal Panchayat Ghaseti Dhara*, although, as per the records of the *Nagar Parishad's* own records, *Shri Laxman Ji Maharaj* is the owner of the temple properties, and the receipt for the amount deposited ought to have been issued in the name of *Murti Laxman Ji Maharaj* only. Despite objection



letters dated 30.07.2002 and 10.09.2002 and further notice dated 15.11.2002 sent by the plaintiffs seeking corrections in the receipt, the *Nagar Parishad* failed to rectify the error.

2.2 It was additionally averred that the *Agrawal Panchayat Ghaseti Dhara*, Ajmer, has encroached upon the suit property and is collecting rent from the tenants of the temple, despite having no authority or right over the said property. It was also stated in the plaint that a dispute with regard to the trustee/management/ownership of the Temple is pending before the Devasthan Department.

2.3. On this basis, the plaintiffs sought a decree directing the defendant to pay compensation of Rs. 5,000/-, together with a mandatory injunction directing correction of the receipt dated 31.03.2002 and issuance of a fresh receipt in the name of *Murti Ram Laxman Ji Maharaj*.

3. The defendant, in its written statement, denied that the temple was built by the Chhipa community, though it admitted that the temple has been registered in the name of "Ram Laxman Temple" since 1963. It was pleaded that the temple is presently managed by the Agrawal Samaj, which accordingly deposited the house tax; that mere deposit of tax and issuance of a receipt confers no right, title or ownership; and that the reference to "Agrawal Panchayat, Ghaseti Dhada" in the receipt merely identified the depositor without creating any right in its favour. Dismissal of the suit, with costs, was accordingly prayed for.

4. Based on the pleadings of the parties, the learned Trial Court framed four issues, which read as under:





1. आया, प्रतिवादी द्वारा मूर्ति श्री लक्ष्मणजी महाराज की संपत्ति एवं गृहकर जमा की रसीद अग्रवाल पंचायत, घसेटी धड़ा के नाम काट देने के कारण 5,000/- रु. हर्जाना वादीगण, प्रतिवादी से प्राप्त करने के अधिकारी है?
2. आया, मूर्ति श्री लक्ष्मणजी महाराज मंदिर की संपत्ति छीपा समाज की है ?
3. आया, प्रतिवादी नगर परिषद को वादीगण आदेशात्मक निषेधाज्ञा से पाबंद करवाने के अधिकारी है कि रसीद दि. 31.3.02 मुबलिंग 70,377/-रूपये की, जो अग्रवाल पंचायत घसेटी धड़ा के नाम काटी गई है, उसको सही कर मूर्ति रामलक्ष्मण जी महाराज, रावण की बगीची के नाम काटी जावें?
4. अनुतोष

5. In order to substantiate their averments, the plaintiffs examined PW-1 *Ramrakh Chhipa* and produced documentary evidence, which was exhibited as Ex. P-1 and P-2 (Notices), Ex. P-3 (Letter dated 10.09.2002), Ex. P-4 (Reminder Letter), Ex. P-5 (Office copy of the Notice) and Ex. P-8 (Receipt dated 31.03.2002).

5.1. In rebuttal, the defendant examined DW-1 *Mr. Anil Kumar Jain*, Revenue Inspector, *Nagar Parishad*, Ajmer.

6. After hearing the arguments advanced by the respective parties and examining the evidence on record, the learned Trial Court decided all the issues against the plaintiffs and dismissed the suit vide judgment and decree dated 18.03.2010.

7. Aggrieved, the plaintiffs preferred a first appeal, being Civil Appeal No. 541/2014.

8. By the impugned judgment and decree dated 08.10.2024, the learned First Appellate Court, upon reappraisal of the evidence, dismissed the appeal and affirmed the judgment and decree of the Trial Court.

9. The appellants, aggrieved by the concurrent findings of fact recorded by both the Courts below, have preferred the present second appeal under Section 100 CPC.





10. Learned counsel for the appellants submits that the impugned judgments and decrees are contrary to the record and were rendered without due regard to the applicable law. He submits that the learned Courts below erred in deciding Issue No. 1 against the plaintiffs on the ground of lack of locus standi, disregarding the settled position that a devotee or worshipper is entitled to institute a suit on behalf of a deity. He further submits that the impugned judgments contravene the mandatory requirement of Order 20 Rule 5 CPC, in that Issues No. 2 and 3, though distinct, were decided together. He accordingly prays that the appeal be admitted on the substantial questions of law framed in the memorandum of appeal, and that the impugned judgments and decrees be set aside.

11. Heard learned counsel for the appellant and perused the material available on record.

12. The record discloses that the suit for compensation and permanent injunction was founded on the assertion that the Temple of *Shri Laxman Ji Maharaj*, near *Ravan Ki Bagichi*, Ajmer, was built by the *Chhipa* community, that the properties bearing Nos. 814, 815 and 816, Ward No. 29, Ajmer, belong to the temple and stand recorded as such in the *Nagar Parishad's* records, and that the appellants allegedly deposited house tax of Rs. 70,377/- through their accountant pursuant to demand notices dated 16.03.2000, 17.03.2001 and 16.11.2001. It is the appellants' case that the resultant payment receipt (Exhibit P-8) was issued in the name of *Agrawal Panchayat*, *Ghaseti Dhada*, and that the



respondent's failure to correct the name despite objection caused them mental agony.

13. A perusal of the impugned judgments shows that the suit was instituted by the plaintiffs in their personal capacity, purportedly asserting rights on behalf of the *Chhipa* community and the deity *Shri Ram-Laxman Ji Maharaj*. However, the plaintiffs placed no resolution, power of attorney, or other written authority from the Temple Trust or the *Chhipa* community on record to establish their authority to institute the proceedings.

14. In the absence of any document demonstrating that the plaintiffs were vested with administrative control or authorized by a competent body, the plaintiffs remain unauthorized individuals with no legal character or personal entitlement to maintain the suit. Thus, the learned Courts below have rightly dismissed the suit holding that the plaintiffs lacked the *locus standi* to file the suit in the first place.

15. The further contention concerning the issuance of the payment receipt (Exhibit P-8) in the name of '*Agrawal Panchayat, Ghaseti Dhada*', rather than '*Shri Ram-Laxman Temple*', is equally without merit. It is relevant that the dispute regarding management and trusteeship of the temple is already pending adjudication before the competent authority under the Devasthan Department. In any event, the mere issuance of a payment receipt bearing the name of a particular depositor neither creates nor extinguishes title to immovable property, nor does it constitute evidence of ownership or lawful management.



16. Even otherwise, the payment of municipal taxes, or the issuance of a receipt acknowledging such payment, at best constitute a proof of possession only. Such payment is merely a fiscal arrangement between the municipal authority and the person making the payment and cannot, by itself, confer any right, title or interest over the property concerned. Thus, the learned Courts below have rightly held that the issuance of Receipt (Exhibit-8) does not confer any right, title or interest upon *Agarwal Panchayat Ghaseti Dhada*, nor does it adversely affect any legal right of the plaintiffs.

17. Lastly, the contention advanced by the appellant that the failure of the defendant-*Nagar Parishad*, Ajmer to substitute the name of *Agarwal Panchayat Ghaseti Dhada* with *Shri Ram-Laxman Temple* in the payment receipt caused mental agony to the plaintiffs and entitled them to claim compensation is wholly devoid of merit. It is well settled that the foundation of any civil action for damages is the violation of a legal right resulting in a legal injury. Unless the plaintiffs establish that a legal right vested in them has been violated, no claim for compensation can be sustained merely on the basis of a subjective dissatisfaction. In the absence of cogent evidence demonstrating that the plaintiffs were the persons who made the payment or was otherwise legally entitled to claim issuance of the receipt in a particular name, no enforceable legal right can be said to have been violated.

18. Therefore, in view of the foregoing discussion, I find that both the learned Courts below have not committed any illegality or perversity in dismissing the suit and the first appeal, or in the



reasons recorded therein. All the arguments advanced by the learned counsel for the appellants are essentially pure questions of fact, which do not give rise to any substantial question of law.

19. It is trite law that the condition precedent for entertaining and deciding a second appeal is the existence of a substantial question of law.

20. A second appeal can be entertained only if a substantial question of law is involved in the case and it is not within the domain of the High Court to investigate the grounds on which the findings were arrived at, by the last court of fact, being the first appellate court. As such, second appeal cannot be decided on factual grounds rather conditions mentioned in Section 100 of CPC must be complied with to admit and maintain a second appeal.

21. In view of the discussions made herein above, no question of law much less any substantial question of law is involved in the second appeal requiring interference by this court in exercise of its jurisdiction under section 100 of Code of Civil Procedure.

22. Since no substantial question of law is made out, the impugned judgments and decrees passed by both the learned Courts below is hereby affirmed and in result thereof, the present civil second appeal being devoid of merits, is hereby dismissed with no order as to costs.

23. All pending applications, if any, shall stand disposed of.

(MANEESH SHARMA),J

DEEPA-2