

IN THE SUPREME COURT OF INDIA

APPELLATE JURISDICTION / LANDMARK PRECEDENT

Santosh Hazari v. Purushottam Tiwari

Registry Status : REPORTED PRECEDENT -- OFFICIAL RECORD

1. EXECUTIVE SUMMARY & KEY HIGHLIGHTS

In this locus classicus on civil appellate procedure, a 3-Judge Bench of the Supreme Court speaking through Justice R.C. Lahoti formulated the definitive tests governing the jurisdiction of High Courts in second appeals under Section 100 of the Code of Civil Procedure, 1908. Interpreting the 1976 CPC Amendment, the Court held that the existence of a 'substantial question of law' is a jurisdictional prerequisite for entertaining a second appeal, and its formulation under Section 100(4) is mandatory. The Bench established a tripartite test: a substantial question of law must be debatable, not previously settled by the Supreme Court, and must directly affect the rights of parties on the pleadings and findings. Crucially, the Court held that the First Appellate Court is the final court of fact; the High Court cannot disturb findings of fact in second appeal unless they are perverse or unsupported by evidence.

- * **Mandatory Formulation of Substantial Question of Law:** High Court has no jurisdiction to hear or decide a second appeal without formulating substantial questions of law under Section 100(4) CPC.
- * **Tripartite Definition of Substantial Question of Law:** Formulated the classic test: must affect party rights, must not be settled by higher courts, and must involve an open, arguable legal controversy.
- * **First Appellate Court as Final Court of Fact:** Findings of fact arrived at by the first appellate court cannot be reversed in second appeal merely because an alternative view is possible.
- * **Exceptions Permitting Factual Interference:** Factual findings may be interfered with only where they are perverse, based on no evidence, or arrived at by ignoring vital material evidence.
- * **Legislative Intent Behind 1976 Amendment:** Reaffirmed the Law Commission's objective to curb routine second appeals and eliminate third trials on facts.

2. FACTUAL MATRIX & IMPUGNED PROCEEDINGS

The dispute involved ownership, title, and alleged encroachment over a plot of land in Madhya Pradesh. The plaintiff (Santosh Hazari) filed a civil suit for declaration of title and mandatory injunction for removal of encroachment against Purushottam Tiwari.

The trial court dismissed the suit, holding that the plaintiff failed to establish title and encroachment. The plaintiff appealed to the First Appellate Court (District Court).

The First Appellate Court, exercising its full powers as the final court of fact, meticulously reappraised the oral and documentary evidence, reversed the trial court's findings, and decreed the suit in favour of the plaintiff.

The defendant preferred a second appeal under Section 100 CPC before the High Court of Madhya Pradesh. The High Court admitted the appeal without formulating any substantial question of law at the admission stage as mandated by Section 100(4) CPC.

At the final hearing, the High Court reappraised the evidence on its own, reversed the First Appellate Court's factual findings, and restored the trial court's dismissal, all without formulating or answering any substantial question of law.

The plaintiff appealed to the Supreme Court, contending that the High Court lacked jurisdiction to overturn the First Appellate Court's factual decree without formulating a substantial question of law.

3. RATIO DECIDENDI (VERBATIM COURTROOM HOLDING)

Per R.C. Lahoti, J. (for the Bench):

"9. The mandate of Section 100 CPC as amended by the 1976 Amendment Act is clear and unambiguous. A second appeal does not lie as a matter of right on questions of fact or on routine questions of law. It lies to the High Court only if the High Court is satisfied that the case involves a substantial question of law. The existence of a substantial question of law is the sine qua non for the exercise of jurisdiction under Section 100."

"12. The expression 'substantial question of law' has not been defined in the Code. However, the tests to determine whether a substantial question of law is involved are well settled: (1) whether it is of general public importance or whether it directly and substantially affects the rights of the parties; and if so, (2) whether it is either an open question in the sense that it is not finally settled by this Court or by the Privy Council, or (3) whether it is not free from difficulty or calls for discussion of alternative views."

"13. If the question is settled by the highest court or the general principles to be applied in determining the question are well settled and there is a mere question of applying those principles to the facts of the case, it would not be a substantial question of law. The word 'substantial' means having substance, essential, real, of sound worth, an important or material matter -- as distinguished from a trivial, illusory, or technical point of law."

"14. The First Appellate Court is the final court of fact. When the First Appellate Court reverses a finding of fact of the trial court, the High Court in second appeal cannot re-evaluate the evidence and substitute its own subjective opinion for that of the First Appellate Court. A finding of fact can be interfered with in second appeal only if it is perverse -- that is, if it is based on no evidence, or is contrary to the entire weight of evidence, or if the court has ignored vital admissible evidence or acted upon inadmissible material."

"15. In the present case, the High Court completely bypassed Section 100(4) by failing to formulate any substantial question of law at the admission stage and proceeded to overturn findings of fact. Such an exercise of jurisdiction is impermissible. We set aside the judgment of the High Court and remand the appeal for fresh hearing in strict compliance with Section 100 CPC."

4. OBITER DICTA & JUDICIAL OBSERVATIONS

Procedure for Hearing Under Section 100(5) CPC:

The Court outlined the strict procedure: under sub-section (4), the High Court must formulate substantial questions of law at the time of admission. Under sub-section (5), the appeal must be heard strictly on the formulated questions. The respondent has the right to argue that the question formulated is not a substantial question of law. If the Court wishes to hear the appeal on any other question, it must formulate that question after recording reasons.

Curbing Frivolous Second Appeals:

Justice Lahoti emphasized that High Courts must strictly guard the threshold of Section 100. Routine admission of factual controversies under the guise of substantial questions of law defeats the parliamentary purpose of the 1976 Amendment and burdens High Court dockets with unnecessary litigation.

5. POINTS OF LAW FRAMED & ANSWERED

Legal Issue Framed	Supreme Court's Holding
What is the tripartite test to determine whether an issue is a 'substantial question of law' under Section 100 CPC?	It must: (1) directly affect party rights; (2) be an unsettled/open legal question; and (3) involve arguable controversy calling for discussion of alternative views.
Can the High Court decide a second appeal without formulating a substantial question of law?	No. Formulating a substantial question of law under Section 100(4) is a mandatory jurisdictional condition precedent; failure to formulate invalidates the judgment.
Under what exceptional circumstances can the High Court interfere with findings of fact in second appeal?	Only where findings are perverse -- based on no evidence, contrary to uncontroverted evidence, or reached by ignoring vital admissible evidence.

6. STATUTORY FRAMEWORK & MODERN LEGISLATIVE ALIGNMENT

Precedent Reference / Former Statute	Modern Act (BNSS / BNS / BSA / CPA)	Doctrinal & Procedural Analysis
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Code of Civil Procedure, 1908 - Section 100	Code of Civil Procedure, 1908 (Preserved)	Restricts second appeals strictly to substantial questions of law formulated by the High Court; bars third trials on factual disputes.
Code of Civil Procedure, 1908 - Order XLI Rule 31	Code of Civil Procedure, 1908 (Preserved)	Mandates that First Appellate Courts must formulate points for determination, examine all evidence, and record reasoned findings as final court of fact.
Code of Civil Procedure, 1908 - Section 103	Power of High Court to Determine Issues of Fact	Section 103 permits High Court to determine facts only if evidence is on record and facts were not determined by lower courts, or determined wrongly on substantial questions of law.

7. SUBSEQUENT JUDICIAL TREATMENT & LINEAGE

- * Chunilal V. Mehta & Sons v. Century Spg. & Mfg. Co. (1962) Supp (3) SCR 549 (Constitution Bench):Foundational authority codified and applied in Santosh Hazari.
- * Hero Vinoth v. Seshammal (2006) 5 SCC 545:Reaffirmed and categorized the Santosh Hazari formulation into definitive propositions.
- * Nazir Mohamed v. J. Kamala (2020) 19 SCC 769:Summarized the modern jurisprudence on Section 100 CPC, adopting Santosh Hazari as the guiding touchstone.
- * High Courts Nationwide (2001-2026):Cited thousands of times annually as the universal standard for admission and hearing of Section 100 second appeals.

8. PRACTICAL LITIGATION PLAYBOOK & STRATEGIC CHECKLIST

- * Frame Precise Substantial Questions of Law:Draft proposed questions in the appeal memo focusing on statutory interpretation, misconstruction of title deeds, or perversity.
- * Demonstrate Unsettled Legal Issue:Show that the question has not been settled by the Supreme Court and requires authoritative resolution to decide the appeal.
- * Establish Factual Perversity:If challenging factual findings, identify specific vital documents ignored by the First Appellate Court to meet the perversity standard.
- * Strictly Comply with Order 42 Rule 1:Ensure certified copies of trial court and first appellate court judgments are filed with specific grounds under Section 100.
- * Raise Section 100(5) Preliminary Objection:Argue that the questions formulated are pure questions of fact or settled legal propositions not qualifying as substantial.
- * Emphasize First Appellate Court Finality:Reiterate that the First Appellate Court is the final court of fact and that concurrent or reasoned factual findings cannot be disturbed.
- * Demonstrate Absence of Perversity:Show that the First Appellate Court's findings are based on oral and documentary evidence on record, even if another view is possible.
- * Cite Santosh Hazari to Prevent Reappreciation:Object to any attempt by the appellant to invite the High Court to re-weigh the testimony of witnesses.