**SECOND APPEAL IN HIGH COURT**

IN THE HON’BLE HIGH COURT OF JUDICATURE

AT Second Appeal No..................... of 19....................

(Under Section 100 C. P. C. )

...................................................................... Appellant

*versus*

................................................. Defendant/Respondent

.................................... Proforma Plaintiff/Respondent

To

The Hon’ble Chief Justice and his Companion Judges of the High Court of Judicature at....................

Second Appeal against the judgment and decree of the Additional Civil Judge, .................... dated.................... in Civil Appeal No..................... of 19..................... between.................... and another, arising from judgment and decree in Original Suit No..................... of 19.................... Shri......................................... is most respectfully submitted on the following amongst other grounds of appeal:

Valuation of the Appeal.................... Rs..................... as per valuation in original suit.

Court fee paid........................ Rs.....................

**GROUNDS OF APPEAL**

1. Because the learned Appellate Court has not framed points for decision in appeal and has pressed only on one irrelevant and evasive point in a round about way bye-passing judicial approach and justice in the matter.

2. Because under Rule 26 of the U. P. Zamindari Abolition & Land Reforms Act, 1952, if the building is abandoned, the site shall escheat to the State, the alleged Garhi having been abandoned the site had long before become the property of *Gaon Sabha* and no issue or point has been framed by the Courts below even at the face of the express pleading by the Appellant in this respect.

3. Because the learned Appellate Court has misunderstood the law as to ownership of the *abadi* sites in dispute. It is totally misconceived that since the respondent *Zamindar* was owner before abolition of *Zamindari,* hence he is owner of the *abadi* site in dispute. No possession is established on record either by filing extracts from *Kutumb* Register, or extracts from election record of Voters, or even by oral evidence that such and such servant is residing therein on behalf of the ex-Zamindar.

4. Because the bar to prove the *neem* trees within the.................... or in plot No..................... has been wrongly placed on the defendant/appellant. It is the plaintiff who is to stand on his own legs and it was he who was to get the land surveyed and not the defendant/appellant. The learned lower Appellate Court has miserably failed to import justice according to established principles of law.

5. Because the judgment of the learned Appellate Court is otherwise also against the provisions of law and facts on record.

6. Because the judgment of learned Appellate Court is evasive in nature and is no judgment in the eye of law.

7. Because the suit being bad for non-joinder of State and Gaon Sabha being necessary parties is liable to be dismissed on this ground alone and appeal be allowed.

**RELIEF CLAIMED:**

It is, therefore, most respectfully prayed that the appeal may be allowed and suit of the plaintiff/respondent be dismissed by setting aside the judgment of the trial Court.

Dated.................... Counsel for the Appellant.

**case law**

***Section 100***

**SUIT FOR REDEMPTION OF MORTGAGE—WHETHER IN RESPECT OF ALL PLOTS OR ONLY IN RESPECT OF PART THEREOF — MIXED QUESTION OF FACT AND LAW— RECORDS OF APPEAL NOT SHOWING WHETHER OBJECTION TAKEN AT ANY EARLIER STAGE AND COURTS BELOW HAVE GONE INTO QUESTION — CASE REMITTED TO HIGH COURT FOR DISPOSAL IN ACCORDANCE WITH LAW.**

Before the High Court a stand was taken on behalf of the respondents that by the mortgage deed five plots were mortgaged but the appellants had sought redemption in respect of two plots; out of the plots one of plots was never subject matter of mortgage and as such the suit for redemption was not maintainable.

The appellants have produced a copy of the plaint along with the schedule thereof and it was urged on their behalf that the suit has been dismissed by the High Court under misconception about the factual position in respect of the subject matter of dispute. A grievance was also made that the question whether the suit for redemption is in respect of all the plots which had been mortgaged or only in respect of part thereof, was a question of fact and as such any such plea regarding non-

maintainability of the suit, should not have been taken on behalf of the respondent for the first time before the High Court.

The learned counsel appearing for the respondent could not point out from the records of the appeal that this objection had been taken on behalf of the respondent at any earlier stage and the courts below have gone into this question. It cannot be disputed that it is a mixed question of fact and law. In such a situation, we are left with no option but to set aside the judgment of the High Court and to remit the case back to the High Court for disposal in accordance with law1.

**SECOND APPEAL — SUBSTANTIAL ERROR OR DEFECT IN PROCEDURE — WHERE COURT BELOW IGNORED WEIGHT OF EVIDENCE AND ALLOWED JUDGMENT TO BE INFLUENCED BY INCONSEQUENTIAL MATTERS — HIGH COURT JUSTIFIED IN REAPPRECIATING EVIDENCE.**

Section 100 (1) (c) refers to a substantial error or defect in the procedure. The error or defect in the procedure to which the clause refers is not an error or defect in the appreciation of evidence adduced by the parties on the merits. Even if the reappreciation of evidence made is patently erroneous and the finding of fact recorded in consequence is grossly erroneous that cannot be said to introduce a substantial error or defect in the procedure.

When the first appellate court discarded the evidence as inadmissible and the High Court is satisfied that the evidence was admissible that may introduce an error or defect in procedure. So also in a case where the court below ignored the weight of evidence and allowed the judgment to be influenced by inconsequential matters, the High Court would be justified in reappreciating the evidence and coming to its own independent decision2.

**LOWER APPELLATE COURT DECREEING SUIT ON AN ASSUMPTION NOT SUPPORTED BY EVIDENCE — HIGH COURT JUSTIFIED IN SETTING ASIDE FINDING.**

The appellant was appointed temporarily as an Assistant Jailor in the State of Madhya Pradesh and his services were terminated in 1965 without assigning any reason. He filed the suit out of which the present appeal arises challenging the termination order as illegal on the ground that although it was, on its face, a termination order simpliciter it was passed as a measure of punishment without holding an inquiry. The suit was dismissed by the trial court but on appeal the First Additional District Judge, decreed the same. The State of Madhya Pradesh challenged the judgment before the High Court in second appeal which was allowed and the suit was again dismissed. The plaintiff-appellant has now come to this court in the present appeal by special leave.

The High Court disagreed with the assumption made by the Additional District Judge which was not supported by any evidence. Besides, the circular did not cast any stigma on any particular person. Its object was to lay down a guideline for the conduct of the state employees in the future, so far as the plaintiff was concerned, his services had already been terminated earlier and there was no question of re-opening the matter. It will thus be seen that the first appellate court while recording the finding acted on an assumption not supported by any evidence and further failed to consider the entire document on the basis of which the finding was recorded. The High Court was, therefore, justified under S. 100 of the Code of Civil Procedure to set aside the finding3.

**CONCURRENT FINDINGS OF FACT, HIGH COURT NOT PRECLUDED FROM RECORDING PROPER FINDINGS.**

As to the jurisdiction of the High Court to reappreciate evidence in a second appeal it is to be observed that where the findings by the court of facts is vitiated by non-consideration of relevant evidence or by an essentially erroneous approach to the matter, the High Court is not precluded from recording proper findings4.

**SUIT FOR PARTITION AND SEPARATE POSSESSION — PROPERTY SOLD — SALE DEED EXECUTED BY ONE OF JOINT OWNERS — FINDING BY LOWER COURT THAT SALE DEED SHAM AND NOMINAL AFFIRMED BY HIGH COURT — NO ERROR COMMITTED BY HIGH COURT IN NOT INTERFERING WITH DECISION OF FIRST APPELLATE COURT.**

The first appellate court held that in the facts and circumstances of the case the sale-deed under which the plaintiff claims is purely sham and nominal and not supported by consideration and does not convey any title to the plaintiff. It was, therefore, held by the First Appellate court that the plaintiff could not make out a preferential claim in the said property against the defendant who was in possession thereof ever since execution of the sale-deed. The High Court had dismissed the second appeal. The view taken by the First Appellate court for non-suiting the plaintiff cannot be faulted. The facts and circumstances which are either admitted or beyond controversy at this stage-fully support that conclusion. On that conclusion alone the plaintiff’s suit had to fail. Accordingly, there is no error committed by the High Court in not interfering with the decision of the first Appellate court in second appeal5

**HIGH COURT NOT CORRECT IN SETTING ASIDE — CONCURRENT FINDING OF FACT.**

The High Court was not correct in setting aside the concurrent finding that the sale of ancestral immovable property was an act of good management and not restricted by custom, being a finding of fact6.

**HIGH COURT WILL BE WELL WITHIN RIGHTS IN SETTING ASIDE IN A SECOND APPEAL A PATENTLY ERRONEOUS FINDING.**

It is true that in a second appeal a finding on fact even if erroneous will generally not be disturbed but where it is found that the finding is vitiated by application of wrong tests or on the basis of conjectures and assumptions then a High Court will be well within its rights in setting aside in a second appeal a patently erroneous finding in order to render justice to the party affected by the erroneous finding7.

**REVENUE RECORDS NOT DOCUMENT OF TITLE — INTERPRETATION OF — NOT A QUESTION OF LAW — INTERFERENCE BY HIGH COURT, ILLEGAL.**

So far as the revenue records were concerned the appellate court considered the same and held that they did not support the plaint. The High Court has reversed the finding saying that the interpretation of the first appellate court was erroneous.

It is firmly established that the revenue records are not documents of title and the question of interpretation of a document not being document of title is not a question of law. These errors have seriously vitiated the impugned judgment of the High Court which must be set aside8.

**FINDING OF FACT**

Where finding of fact rendered by lower court is on basis of interpretation of revenue record interference with finding by High Court is illegal9.

**CONCURRENT FINDING.**

The only issue before the courts below, on the strength of which the fate of the case rested was whether Ramaswamy was in sole possession of the suit property. That finding was in his favour. The High Court itself has left the question of title open to be decided in appropriate proceedings. It was for the protection of possession of Ramaswamy that the grant of injunction became necessary and having regard to the facts and circumstances, the plaintiff Ramaswamy was given relief on the basis of the case set up by him and supported by evidence. The High Court had thus no jurisdiction either to reassess the evidence or without reassessing as such find any infirmity in the measure of proof is within the domain of the two courts of fact in the hierarchy. Sufficiency of the proof can be no ground for the High Court to interfere in a finding of fact. Thus we are of the considered view that the High Court fell in a legal error in this case reversing the judgments and decrees of the courts below and dismissing the suit of Ramaswamy10.

**RE-APPRECIATION OF EVIDENCE, INTERFERENCE WITH CONCURRENT FINDINGS OF FACT IN SECOND APPEAL JUSTIFIED.**

A perusal of the impugned judgment of the High Court shows that there were good reasons for treating the finding on the question of possession recorded by the first two courts to be vitiated. Apart from the reasons given by the High Court, it appears that ignoring some of the documents which were vital for deciding the question of possession also vitiated the finding on the question of possession recorded by the Trial Court as well as the First Appellate Court. Apart from the documents evidencing the compromise containing the recital of surrender of possession of the land the other documents material for the purpose were the orders made in the eviction proceedings by the Revenue Court when the matters were taken up by the Revenue Court and dismissed on the basis of the compromise accepted by the parties who were present. Ignoring these orders and overlooking the logical effect thereon and basing the conclusion on the question of possession only on the oral evidence adduced did cause an infirmity in the finding of fact which justified interference in second appeal11.

**REAPPRAISING EVIDENCE — LIMITATIONS ON HIGH COURT POWER NOT APPLICABLE TO CAUSE UNDER SECTION 11 OF H. P. ABOLITION OF BIG LANDED ESTATES AND LAND REFORMS ACT.**

The limitations on the power of the High Court to interfere with findings of fact as mentioned in Section 100 of the Code of Civil Procedure are not applicable to the cause under Section 11 of the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953. In view of the wider scope of Section 104 of the Act the High Court was entitled to reappraise the evidence and come to its own findings which has been rightly done in the case12.

**PRESUMPTION AS TO DOCUMENT IN APPEAL.**

Registered document purporting to record of adoption made and signed by person giving and person taking, it is presumed that adoption was made in compliance with provisions of Act unless and until disproved13.

**WHEN ORAL EVIDENCE DOES NOT FALSIFY DOCUMENTARY EVIDENCE.**

Where finding of possession was based on documentary evidence, non-consideration of oral evidence of any of the parties could not falsify the documentary evidence14.

**POWER OF HIGH COURT TO SET ASIDE A FINDING OF FACT.**

High Court in second appeal can set aside a finding of lower appellate Court even without making an order of remand under O. 41. R 2515.

**NON-SUSTAINABILITY OF PERVERSE FINDING IN SECOND APPEAL.**

Where the approach of the Court below is wrong, the perverse finding arrived at on the basis of such wrong angle cannot be sustained in second appeal16.

**INTERFERENCE IN SECOND APPEAL.**

It is settled law that a finding of fact can be interfered with a second appeal only when that finding is without evidence or based on an inadmissible evidence or is perverse that is, the finding is such that no reasonable man can come to it from the materials on record17.

**DISMISSAL OF SECOND APPEAL FOR NOT FINDING TRIAL COURT’S JUDGMENT’S COPY WITHIN LIMITATION NOT PROPER.**

Such defect is technical as the second appeal itself had been presented in time. The delay in filing a copy of trial court’s judgment should have been condoned, and the second appeal should have been entertained and disposed of on merits18.

**WHEN A SINGLE SECOND APPEAL IS MAINTAINABLE AGAINST DECREES IN TWO APPEALS.**

Where two reliefs dealt with by the lower appellate Court in separate title appeals were prayed for a single suit, which concurrently held by both the Courts below not bad for multifariousness, the prayer of the plaintiff in a single second appeal for decreeing the suit in full should be entertained, specially wherein copies of both the decrees have been appended and full Court fee has been paid19.

**WHERE DELAY CANNOT BE CONDONED.**

Where the appeal was filed without judgment and decree of trial Court, but the letter giving knowledge about the defect to the petitioner was received by him before filing the petition, however it was alleged to have been misplaced. Held that misplacement of the letter received and read implies timely knowledge of the defect and would provide no presentable case to condone delay20.

**VALIDITY OF KERALA HIGH COURT AMENDMENTS.**

The Kerala High Court Amendment of O. 42 R. 2 in 1959 required production of judgment and decree. This amendment is not inconsistent with O. 42, R. 2 of the Code. It is not repealed in view of S. 97(1) of the Amendment Act 104 of 197621.

**WHERE CASE CANNOT BE REMANDED.**

Where documentary evidence which is more valuable, the defendant’s possession is proved and there will be no occasion for unnecessarily prolonging the litigation by making any remand, the remand of the case is not proper22.

**REBUTTAL OF STATUTORY PRESUMPTION — A QUESTION OF FACT**

Where a statutory presumption is rebutted by the rest of the evidence is always a question of fact and the finding on it is binding in second appeal and much more so in a civil revision23.

**CONSIDERATIONS FOR INTERFERENCE IN SPECIFIC RELIEF MATTER.**

The appeal itself must be dismissed inasmuch as the concurrent finding of fact arrived at by the two courts below is that "the plaintiff had never shown his readiness to perform his part of the contract and as such was not entitled to the relief of specific performance’. Under Section 16(c) of the Specific Relief Act, specific performance of contract cannot be enforced in favour of a person who fails to prove that he has performed or has always been ready and willing to perform the essential terms of the contract which are to be performed by him24.

**FINDING OF FACT RECORDED BY FIRST APPELLATE COURT — INTERFERENCE BY HIGH COURT.**

***Section 100***

The finding of fact recorded by the first appellate court based on evidence could not be interfered with by the High Court, that too in the absence of any substantial question of law that arose for consideration between the parties.25

**CONSTRUCTION OF BASIC DOCUMENTS WHETHER A QUESTION OF LAW ? (YES).**

The construction of a document which is the foundation of the rights of parties necessarily raises a question of law26.

**INTERFERENCE BY HIGH COURT IN SECOND APPEAL WHEN ONE OF RESPONDENT NOT SERVED.**

Interference by High Court in second appeal when one of the respondent was not served is a vital defect and the judgment cannot be sustained.27

**CONCURRENT FINDING OF FACT.**

The High Court appears to have done what is not permissible for it in a second appeal, be it one even filed under the amended Section 100, CPC, by re-appreciating the evidence, adopting a process of elimination by being merely critical of the materials produced on behalf of the State without taking into account the cumulative effect of those materials and completely ignoring the fact that none of the plaintiffs have chosen to go into the box to substantiate their claims.28

It is well settled that the High Court has no jurisdiction to entertain the second appeal on the ground of erroneous finding of fact howsoever gross the error may be29.

Bar is erected under Section 100 of the Civil P. C. forbidding the High Court to interfere in a finding of fact in Second Appeal30.

In Second Appeal the High Court would not be justified in appointing a Commission and reversing the concurrent finding of fact on the basis of the report of the Commissioner31. The appellant has not made out that the judgments of the courts below suffer from any error of law or jurisdiction. His request is to re-appreciate evidence to reach a different conclusion which is not permitted in second appeal u/s. 100 C.P.C.32.

**CONCURRENT FINDING ON FACTUM OF GENEOLOGY.**

***Section 100***

When there is concurrent finding on factum of geneology there is no scope for re-entering into matter of geneology by the second appellate Court.33

**SECOND APPELLATE COURTS JURISDICTION TO ENTERTAIN APPLICATION FOR ADDITIONAL EVIDENCE.**

It is open to the appellate Court at the stage of second appeal to permit additional evidence to be taken34.

**CONCURRENT FINDINGS OF FACT.**

Where there was concurrent findings of fact recorded by Courts below the High Court was not justified to reverse those findings on reappreciation of evidence.35

**CONCURRENT FINDING OF FACTS.**

In a Second appeal court would not interfere with concurrent finding of facts recorded by courts below.36

**AFFIDAVIT SWORN AT FOOT OF APPLICATION WHETHER A CIENT COMPLIANCE OF LAW ? (YES).**

It is well recognised practice commonly adopted in courts that where an application is required to be supported by an affidavit, the application is drawn up and at the foot of it an affidavit is sworn. Even taking the most technical view of the requirement under this rule meets with the requirement of the situation37.

**FORMULATION OF ESSENTIAL QUESTION.**

It is essential for the High Court to formulate a substantial question of law and it is not permissible to reverse the judgment of the first appellate court without doing so.38

**SUBSTANTIAL QUESTION OF LAW.**

***Section 100***

The existence of a substantial question of law is the *sine quo non* of the jurisdiction of the High Court under Section 100 CPC.39

**SECOND APPEAL — FRAMING OF SUBSTANTIAL QUESTION OF LAW NECESSARY.**

The High Court is required to frame substantial question of Law and only then it acquires jurisdiction to decide a second appeal on merits.40

**SECOND APPEAL.**

The High Court should frame substantial question of law and then only dispose of second appeal.41

**SECOND APPEAL.**

Having regard to provisions of Sections 100 and 101 CPC 1908, the High Court can entertain second appeal only when a substantial question of law arises from the judgment of the 1st appellate Court.42

**SECOND APPEAL (SECTION 100)**

The jurisdiction of High Court is confined only to appeal involving substantial question of Law.43

**SECOND APPEAL — JURISDICTION OF HIGH COURT**

Under Section 100 of the CPC jurisdiction of the High Court to entertain a second appeal is confined only to such appeals which involve substantial question of law and it does not confer any jurisdiction on the High Court to interfere with pure question of fact while exercising its jurisdiction under Section 100, CPC.44

**HIGH COURT HAS NO POWER TO ENTERTAIN SECOND APPEAL ON GROUND OF ERRONEOUS FINDINGS OF FACTS.**

High Court has no jurisdiction to entertain second appeal on ground of erroneous findings of fact however gross error there may be.45

**CONSTRUCTION OF DOCUMENT**

The construction of documents would be a substantial question of law is now a well settled proposition.46

**REHEARING OF APPEAL**

When appeal is heard *ex-parte* for no fault or laches on part of party against whom it was heard it can be reheard.47

**MERGER — DOCTRINE OF.**

The logic underlying the doctrine of merger is that there cannot be more than one decree or operative orders governing the same subject-matter at a given point of time.48

**SECOND APPEAL — NEW PLEA**

Plea under section 53-A of the Transfer of Property Act, raises a mixed question of Law and fact and therefore cannot be permitted to be urged for the first time at the stage of second appeal.49

Judgment passed in second appeal without keeping in view the limited jurisdiction available with court cannot be sustained.50

**SECOND APPEAL — INTERFERENCE.**

The drawing of adverse inference by the High Court and recording conclusion that the decision of the first appellate court was based on no evidence does not amount to reappreciation of evidence on record.51

**SECOND APPEAL — NEW PLEA**

Where no ground as to certain matter was taken in the first appellate court the same cannot be allowed to be raised in second appeal.52

**RE-APPRECIATION OF EVIDENCE**

Jurisdiction of High Court to re-appreciate evidence in second appeal is vitiated by non-consideration of relevant evidence or by erroneous approach to the matter.53

**JURISDICTION OF COURT**

The High Court can exercise its jurisdiction under Section 100 of Civil P. C. only on the basis of substantial questions of law which are to be framed at the time of admission of the Second appear and the second appeal has to be heard and decided only on the basis of such duly framed substantial questions of law.54

**100A. No further appeal in certain cases—** Notwithstanding anything contained in any Letters Patent for any High Court or in any other instrument having the force of law or in any other law for the time being in force.

(a) where any appeal from an original or appellate decree or order is heard and decided.

(h) Where any writ, direction or order is issued or made on an application under article 226 or article 227 of the Constitution by a single Judge of a High Court, no further appeal shall lie from the judgment, decision or order of such single Judge.

**SECTION 100A CPC BARS APPEAL UNDER LETTERS PATENT.**

Section 100A of Civil PC bars an appeal under the Letters Patent from the Judgment of the Judge of a High Court passed in second appeal even with the leave of the Judge who passed the judgment.55

Question of entertaining a second appeal under Section 100 CPC without there being a substantial question of law does not arise and cannot arise.56

High Court acquires jurisdiction under Section 100 CPC to decide second appeal on merits only when it frames substantial question of law.57

1. Gurucharan Koeri v. Bibi Shamsunissa A.I.R. 1994 S.C. 663.

2. Hiralal v, Gajan, A.I.R. 1990 S.C. 723.

3. J. B. Sharma v. State of Madhya Pradesh, A.I.R. 1988 S.C. 703.

4. Jagdish Singh v. Natthu Singh, A.I.R. 1992 S.C. 1604: 1992 (1) S.C.C. 647: 1991 (5) J. T. 400: 1992 (1) U. J. 483; 1992 (1) C.C.C. 154: 1992(2) Scale 1363.

5. Arumugha Chettiar v. Rahmanbee, A.I.R. 1994 S.C. 651.

6. Bara Singh v. Kashmira Singh, 1990(3) C.C.C. 304 S.C.

7. Budhwanti v. Gulab Chand Prasad, A.I.R. 1987 Supreme Court 1984: 1987(2) S.C.C. 153.

8. Corporation of the City of Bangalore v. M. Papaiah, A.I.R. 1989 S.C. 1809.

9. Corporation of the City of Bangalore v. M. Papaiah, A.I.R. 1989 S.C. 1809: 1989(3) J. T. 294: 1989(3) S.C.C. 612.

10. Ramaswamy Kalingaryar v. Mathayan Padayachi, A.I.R. 1992 S.C. 115.

11. Sundra Naicka Vadiyar v. Ramaswami Ayyar, A.I.R. 1994 S.C. 532.

12. State of Himachal Pradesh v. Maharani Kam Sundri, A.I.R. 1993 S.C. 1162.

13. Narain Singh v. Vim, 1985 (1) C.C.C. 595.

14. Sira Ram v. Smt. Draupati Devi, A.I.R. 1984 Pat. 35.

15. S. N. Ghosal v. Era Dutta, AI. R. 1973 Cal. 128.

16. Mahabir Pandey v. Sashi Bhushan, A.I.R. 1981 Cal. 74: 85 C.W.N. 557: (1981) 1 C.H.N. 195.

17. Naresh Chandra v. Sardendu, A.I.R. 1981 Cal. 285.

18. Dipo v. Wasan Singh, A.I.R. 1983 S.C. 846.

19. Harbans Singh v. Basist Kumar (F.B.), A.I.R. 1984 Pat. 220: 1984 Pat.L.J.R. 370.

20. Perumal Pilai v. Permeshwaran Nair, A.I.R. 1981 Ker. 203: 1981 Ker.L.T. 512.

21. Perumal Pillai v. Parameswaran Nair, A.I.R. 1981 Ker. 203: 1981 Ker.L. 512.

22. Banshi Dhar v. Ram Surat, A.I.R. 1985 All. 10(17): (1984) 2 R.C.J. 534; (1984) 10 A.L.R. 672: (1984) 2 A.R.C. 374.

23. Ram Dalyan Das v. Dakha Jena, A.I.R. 1966 Orissa 66: I.L.R. (1965) Cut. 445: 32 Cut.L.T. 194.

24. Bansidhar Das v. Duryodhan Majhi, A.I.R. 1985 Ori. 84: (1985) 39 C.L.T.

25. Hamida v. Md. Kahili, 2001 (2) CCC 179 (SC).

26. Bai Sakenabai v. Gulam Rasul Umarbhai Shaikh, A.I.R. 1981 Guj. 142: (1981) 22 Guj.L.R. 389.

27. Mirza Wajalad Baig v. Sharanappa, 2000 (4) CCC 219 (SC).

28. State of H. P. v. Akshara Nand, AIR 2000 SC 1828.

29. Mohin’der Singh v. Karam Singh, 1996(2) C.C.C. 362 (P&H).

30. Samsuddin Rahman v. Bihari Das, 1996(5) Supreme 493.

31. Motilal Daulatram Bora v. Murlidhar Ramchandra Bhutabe, 1996 (2) C.C.C 222 (S.C.).

32. Kedari Peda Achaiah v. Gunukula Payabalamma, 1996(2) C.C.C. 240 (A. P. ).

33. Girija Singh v. Gaynwanti Devi, AIR 2001 Patna 20.

34. Shashi Nath Pathak v. Smt. Phool Mani Devi, 1986(1) C.C.C. 462 (463) (All. ).

35. Chandra Bhan v. Pamma Bai, 2000 (3) CCC 181 (SC).

36. Dinabandhu Paradhan v. Chaitan Sahu, 2000 (4) CCC 377 (Orissa).

37. M. M. Quasim v. Manohar Lal, A.I.R. 1981 S.C. 1113: (1981)3 S.C.C. 36: 1981 U. J. (S.C.) 396: (1981) 2 R.C.R. 74: 1981 B.L.J. 535; 1981 B.B.C.J. (S.C.) 165: 1981 M.P.R.C.J. 165.

38. Ishwar Das Jain v, Sohanlal, AIR 2000 SC 426.

39. Maheshpur-Tea Industries Pvt. Ltd. v. Mantala Tea Co. Ltd., 2000 (3) CCC 75 (Gau.).

40. Ramavilasom Grandhasala v. N. S. S. Karayogem, AIR 2000 SC 2058.

41. Taherakhatoon v. Salambin Mohammad, AIR 1999 SC 1104.

42. Birendera Kumar Dubey v. Girija Nandan Debey, 2001 (4) CCC 98 (SC).

43. Roop Singh v. Ram Singh, AIR 2000 SC 1485.

44. Roop Singh v. Ram Singh, AIR 2000 SC 1485.

45. Farid Ahmad v. Bibi Mataban, 2001 (1) CCC 239 (Pat. ).

46. Santakumari v. Lakshmi Amma Janaki Amma, AIR 2000 SC 3009.

47. Nakulesh Surrendra Shahi v. Mithileshwari Devi, 2000 *(3)* CCC 172 (Pat. ).

48. Kunhayammed v. State of Kerala, AIR 2000 SC 2587.

49. Ram Kumar Agarwal v. Thawar Dass, AIR 1999 SC 3248.

50. Kemnaiah v. Dodalanaraiah, 2000 (4) CCC 206 (SC).

51. Rajappa Hanamantha Ranoji v. Mahadev Channabasappa, AIR 2000 SC 2108.

52. Bhadar Singh v. Jumi, AIR 2001 P & H.

53. Paramu Vijayasree v. Paramu Jaya Prakash, 2000 (1) CCC 56 (Ker. ).

54. Dnyanoba Bhaurao Shemade v. Maroti Bhavrao Marnor, AIR 1999 SC 864.

55. Chandra Kanta Sinha v. Oriental Insurance Co. Ltd., 2001 (3) CCC 9 (SC).

56. Smt. Dakshyani Amma v. Vasudevan Namboodhiri, 2002 (1) CCC 15 (SC).

57. Shankaragouda F. Thimmanagoudar v. Fakirappa Basappa Harkuni, 2002 (1) CCC 21 (SC).