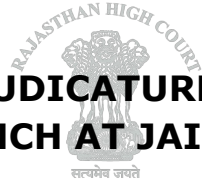




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 17904/2018



1. Darogi S/o Hari Singh (Since Deceased) Through Lrs, R/o Of Village Bhuraka, Tehsil Nagar, District Bharatpur. Heirs And Possession Holder Of Property Of Late Darogi S/o Nehna, Grandson Of Umrao Gurjar R/o Village Bhuraka, Tehsil Nagar, District Bharatpur
2. Kamal S/o Hari Singh, R/o Of Village Bhuraka, Tehsil Nagar, District Bharatpur. Heirs And Possession Holder Of Property Of Late Darogi S/o Nehna, Grandson Of Umrao Gurjar R/o Village Bhuraka, Tehsil Nagar, District Bharatpur
3. Harlal S/o Girraj, R/o Of Village Bhuraka, Tehsil Nagar, District Bharatpur. Heirs And Possession Holder Of Property Of Late Darogi S/o Nehna, Grandson Of Umrao Gurjar R/o Village Bhuraka, Tehsil Nagar, District Bharatpur
4. Mus. Rama W/o Girraj, R/o Of Village Bhuraka, Tehsil Nagar, District Bharatpur. Heirs And Possession Holder Of Property Of Late Darogi S/o Nehna, Grandson Of Umrao Gurjar R/o Village Bhuraka, Tehsil Nagar, District Bharatpur

-----Petitioners

Versus

1. Chetram S/o Mus. Kokal And Hari Singh, Heirs And Possession Holder Of Property Of Late Mst. Kokal R/o Village Bhuraka, Tehsil Nagar, District Bharatpur
2. Subah Ram S/o Mus. Kokal And Hari Singh, Heirs And Possession Holder Of Property Of Late Mst. Kokal R/o Village Bhuraka, Tehsil Nagar, District Bharatpur
3. Geeta D/o Mus. Kokal And Hari Singh, Heirs And Possession Holder Of Property Of Late Mst. Kokal R/o Village Bhuraka, Tehsil Nagar, District Bharatpur
4. Leela D/o Mus. Kokal And Hari Singh, Heirs And Possession Holder Of Property Of Late Mst. Kokal R/o Village Bhuraka, Tehsil Nagar, District Bharatpur
5. Bhagwati D/o Mus. Kokal And Hari Singh, Heirs And Possession Holder Of Property Of Late Mst. Kokal R/o



Village Bhuraka, Tehsil Nagar, District Bharatpur

6. Tehsildar Nagar, District Bharatpur

-----Respondents

For Petitioner(s) : Mr.Ankit Agarwal with
Mr.Hemraj Rodia
For Respondent(s) : Mr.Teeka Ram Meena



JUSTICE ANOOP KUMAR DHAND

Order

19/08/2025

Reportable

Every trial is a voyage of discovery in which truth is the quest. The justice based on truth would establish peace in the society. For the common man truth and justice are synonymous. So, when truth fails, justice fails. People would have faith in Courts when truth alone triumphs.

Framing of issues is a critical step in this voyage of discovery of truth. Framing of appropriate issues ensures efficient trial and a right conclusion.

Framing of issues is probably the most crucial aspect of the trial of a civil suit. For a correct and accurate decision in the shortest possible time in a case, it is necessary to frame the correct and accurate issues. Inaccurate and incorrect issues may kill the valuable time of the case. If correct and accurate issues are not framed, it will lead to grave injustice, delay and waste of the Court's valuable time in deciding the matter.

What would be the effect of a judgment, if it is not based on the separately framed issues along with the findings on the same,



and it is passed without deciding those issues? This is the core question of law which is required to be decided in this case.

1. By way of filing this writ petition, a challenge has been led to the impugned judgment dated 18.08.2010 passed by the Sub-Divisional Officer, Bharatpur (for short, "SDO") whereby the suit filed by the respondents has been decreed and the legal heirs have been declared as khatedars.

2. Learned counsel for the petitioners submits that aggrieved by the aforesaid judgment, the petitioners submitted first and second appeals before the Revenue Appellate Authority (for short, "the RAA") and the Board of Revenue (for short, "the Board") respectively. However, both the appropriate authorities rejected the appeals vide orders dated 30.09.2013 and 15.12.2017 respectively.

3. Counsel submits that a suit under Sections 88, 89 & 188 of the Rajasthan Tenancy Act, 1955 was submitted by the plaintiff-respondent against the present petitioners before the Court of SDO, which was resisted by the petitioners by way of submitting written statement and based on the pleadings of the parties, the SDO framed as many as 7 issues. However, in the impugned judgment, no issue-wise findings have been recorded, as per the provisions contained under Order XX Rule 5 CPC and the judgment was passed in a cursory manner by which the suit, filed by the plaintiff-respondent, was decreed without proper adjudication.

4. Counsel submits that this fact has been overlooked by both the First and Second Appellate Courts, hence, the judgment suffers from legal infirmity and the same has been passed in utter





violation of the mandatory provisions contained under Order XX Rule 5 CPC. Hence, interference by this Court is warranted.

5. *Per contra*, learned counsel for the respondents opposes the arguments raised by counsel for the petitioners and submits that based on the pleadings of the parties, the learned SDO framed as many as seven issues. Instead of deciding the suit issue-wise, the learned SDO decided the suit by recording a cogent finding which has been upheld by both the First and Second Appellate Courts. Counsel further submits that on the basis of the judgments passed by all the three Courts, the mutation has been entered in the name of the respondents. Therefore, at this stage, interference by this Court is not warranted.

6. Heard and considered the submissions made at the bar and perused the material available on record.

7. The scheme of the Code of Civil Procedure, from the stage of pleadings, after the appearance of the parties, upto the stage of disposal of the suit by means of a judgment are very clearly defined from Order VI to Order XX of the C.P.C. Order VI deals with pleadings, Order VII deals with the plaint, Order VIII with the written statement and Order IX with the appearance of parties and the consequences of non-appearance. By the time of compliance up to Order IX of C.P.C., the pleadings are considered to be completed. At this stage, Order X comes into play. Under Order X, the Court is tasked with the responsibility to examine the parties' pleadings to know whether the allegations in the pleadings are admitted or denied. For that purpose, there could be oral examination of the parties or their Pleader, substance of the examination may be recorded and thereafter, the consequences of





refusal or inability of the pleader to answer will be examined. Thereafter, there will be discovery and inspection of documents and facts by interrogatories etc. Then comes Order XIII of C.P.C. to explore the possibility of proof of facts by admission of parties. Order XIII C.P.C. would dispose of the stage of production of documents when they are not produced at the proper time either to condone the delay or not to condone the delay. Thus, from Order VI to Order XIII of C.P.C. the building up of records, conclusions on basic materials, subjection of the parties to the controversies and admissions, the discovery and inspection of facts and the production, impounding and the return of documents will be completed. It is only thereafter, that Order XIV of C.P.C. comes into play, which is the relevant provision for disposal of this case. The suit judicially proceeds with the direction to issue summons for settlement of issues or for final disposal.

8. Order XIV of C.P.C. deals with settlement of issues and determination of the suit on issues of law or issues agreed upon. The provisions in this Order enable the court and the parties to settle down to know the matters in controversy, put them in a proper form, fix the burden on the parties to prove the particular issues, then allow them to lead the evidence and thereafter decide the matter after trial, leading to the judgment. Interestingly enough, 'issues' are not defined in the Evidence Act, 1872, but 'facts in issue' is defined as follows:

"Facts in issue" means and includes - any fact from which, either by itself or in connection with other fact, the existence, non-existence, nature or extent of any right, liability or disability asserted or denied in any suit or proceeding, necessarily follows;





Explanation:— Whenever under the provisions of the law for the time being in force relating to civil procedure, any Court records an issue of fact, the fact to be asserted or denied in the answer to such issue, is a fact in issue.”



9. A simple reading of this provision means, that facts in issue would be already existing between the parties when the pleadings are complete and the discovery and inspection of facts and documents are presented before the court. It is at that stage, the court would put such facts in issue in a particular form called “issues”. That is how Order XIV Rule 1 (1) explains ‘issues’ to mean—

“Issues arise when a material proposition of fact or law is affirmed by one party and denied by the other.”

10. It is further explained in sub-clause (2) of Rule 1 of Order XIV that material propositions are those propositions of law or fact which a plaintiff must allege in order to show a right to sue or a defendant must allege, in order to constitute his defence. That is how sub-clause (3) of Rule 1 of Order XIV declares that each material proposition affirmed by one party and denied by the other, shall form the subject of a distinct issue. Obviously as mentioned in sub-clause (4) of Rule 1 supra, there will be two categories of issues - (a) issues of fact and (b) issues of law. Sub-clause (5) of Rule 1 supra reads as follows:

“At the first hearing of the suit the Court shall after reading the plaint and the written statements, if any, and after examination under Rule 2 of Order X and after hearing the parties or their Pleaders, ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to depend.”



(emphasis supplied).

11. On the face of it, there is a mandate in the rule. The court is bound to frame issues based on the pleadings. Rule 3 of Order XIV of C.P.C. gives a guideline as to the materials from which, issues may be framed, namely—

(a) allegations made on oath by the parties, or by any persons present on their behalf, or made by the pleaders of such parties,

(b) allegations made in the pleadings or in answers to interrogatories delivered in the suit,

(c) the contents of documents produced by either party.

12. In other words when these materials are produced before the Court in accordance with the provisions stated supra, the Court is bound to frame the issues in accordance with guidelines under Order XIV Rule 1 to 4 and in accordance with the mandate under Order XIV Rule 5 of C.P.C. So far as the court is concerned, the duty to frame the issues is mandatory or obligatory. It appears that in such a situation, the definition of "facts in issue" under Section 2 of the Evidence Act, 1872 and the meaning of "Issues" under Order XIV Rule 1 of C.P.C. should be read together to harmoniously understand that the facts in issue in each case arising out of such materials before the court should be subjected to specific forms of issues enumerating the controversies between the parties, and establishing the burden of the parties to prove such issues and the duty of the court to draw inference on the questions of law as issues of law. Therefore, in such a situation, failure to frame issues on the part of the court on the basis of the





pleadings, would be the highest form of judicial impropriety, if not contempt of the legal mandate enjoined upon it.

13. In this case as already pointed out, from the pleadings the following assertions of the plaintiff have been denied by the defendant:

- 1) The title of the plaintiff
- 2) The possession of the plaintiff and
- 3) The identity and the description of the suit property.

14. Further more, the defendant set up his own title to the same property which, according to him, would be the portion of the suit property, set up his possession, challenged the maintainability of the suit and the entitlement of the plaintiff to get the reliefs. In such a situation, if we apply the settled law in regard to settling of the issues as above, the following issues ought to have been framed including casting burden on the parties to prove particular issue and the duty of the court to record a finding on inferential issues viz.,

1) Whether the plaintiff proves the correctness of the plaint schedule including the boundaries of the suit property?

2) Whether the plaintiff proves his title to the suit property?

3) a) Whether the defendant proves his title to the portion of the suit property for which he is claiming possession as pleaded in para17 of the written statement?

b) if so, whether he was in possession of such a property as on the date of the suit?

4) Whether the suit is not maintainable?

5) Whether the plaintiff is entitled to the reliefs as claimed in the suit?





b) if not, to what relief?

6) what order or decree?

15. Order XIV of the CPC deals with the procedure of settlement of issues and determination of suit on issues of law or on issues agreed upon.

16. For ready reference, the procedure contained under Order XIV of the CPC is reproduced as under:-

"1. Framing of issues.—(1) Issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other.

(2) Material propositions are those propositions of law or fact which a plaintiff must allege in order to show a right to sue or a defendant must allege in order to constitute his defence.

(3) Each material proposition affirmed by one party and denied by the other shall form the subject of distinct issue.

(4) Issues are of two kinds:

(a) issues of fact,

(b) issues of law.

(5) At the first hearing of the suit the Court shall, after reading the plaint and the written statements if any, and 1 [after examination under rule 2 of Order X and after hearing the parties or their pleaders], ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to depend.

(6) Nothing in this rule requires the Court to frame and record issues where the defendant at the first hearing of the suit makes no defence.



**2. Court to pronounce judgment on all issues.**

—(1) Notwithstanding that a case may be disposed of on a preliminary issue, the Court shall, subject to the provisions of sub-rule (2), pronounce judgment on all issues.

(2) Where issues both of law and of fact arise in the same suit, and the Court is of opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if the issue relates to—

- (a) the jurisdiction of the Court, or
- (b) a bar to the suit created by any law for the time being in force,

and for that purpose may, if it thinks fit, postpone the settlement of the other issues until after that issue has been determined, and may deal with the suit in accordance with the decision on that issue.

3. Materials from which issues may be framed.

—The Court may frame the issues from all or any of the following materials:—

- (a) allegations made on oath by the parties, or by any persons present on their behalf, or made by the pleaders of such parties;
- (b) allegations made in the pleadings or in answers to interrogatories delivered in the suit;
- (c) the contents of documents produced by either party.

4. Court may examine witnesses or documents before framing issues.

—Where the Court is of opinion that the issues cannot be correctly framed without the examination of some person not before the Court or without the inspection of some document not produced in the suit, (may adjourn the framing of issues to a day not later than seven days) and may (subject to any law for the time being in force) compel the attendance of any person





or the production of any document by the person in whose possession or power it is by summons or other process.

5. Power to amend and strike out, issues.—(1)

The Court may at any time before passing a decree amend the issues or frame additional issues on such terms as it thinks fit, and all such amendments or additional issues as may be necessary for determining the matters in controversy between the parties shall be so made or framed.

(2) The Court may also, at any time before passing a decree, strike out any issues that appear to it to be wrongly framed or introduced.

6. Questions of fact or law may by agreement be stated in form of issues.—(1)

Where the parties to a suit are agreed as to the question of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing that, upon the finding of the Court in the affirmative or the negative or such issue,—

(a) a sum of money specified in the agreement or to be ascertained by the Court, or in such manner as the Court may direct, shall be paid by one of the parties to the other of them, or that one of them be declared entitled to some right or subject some liability specified in the agreement;

(b) some property specified in the agreement and in dispute in the suit shall be delivered by one of the parties to the other of them, or as that other may direct; or

(c) one or more of the parties shall do or abstain from doing some particular act specified in the agreement and relating to the matter in dispute.

7. Court, if satisfied that agreement was executed in good faith, may pronounce





judgment.—Where the Court is satisfied, after making such inquiry as it deems proper,—

(a) that the agreement was duly executed by the parties,

(b) that they have a substantial interest in the decision of such question as aforesaid, and

(c) that the same is fit to be tried and decided, it shall proceed to record and try the issue and state its finding or decision thereon in the same manner as if the issue had been framed by the Court; and shall, upon the finding or decision on such issue, pronounce judgment according to the terms of the agreement; and, upon the judgment so pronounced, a decree shall follow.”

17. Perusal of the provisions provided under Order XIV CPC clearly indicates that whenever pleadings are disputed by the either side, it is the bounden duty of the Court to frame issues for determination of the dispute based on the pleadings of the parties to the suit and thereafter, the burden of proof is allocated to the party disputing the material facts or the provisions of law. As per Rule 7 of the Order XIV, the Court is required to pronounce the judgment on all the framed issues. However, here in the instant case, the aforesaid provisions have been flouted by the Trial Court. It is quite shocking and surprising that in the instant case, although the issues were framed, but they were not decided by appreciating the evidence led on record by the either side and straightaway, the impugned order has been passed summarily, decreeing the suit filed by the plaintiff.

18. The impugned judgment has been passed on the basis of the pleadings of the parties and the evidence produced by them on record. This fact is not in dispute that the Trial Court has framed



as many as seven issues, on the basis of the pleadings of the parties, however, while deciding the suit and delivering the impugned judgment, no categorical issue-wise findings have been recorded, which is mandatory as per the provisions contained under Order XX Rule 5 CPC.

19. For ready reference, the Order XX Rule 5 CPC is reproduced as under:-

“5. Court to state its decision on each issue.—In suits in which issues have been framed, the Court shall state its finding or decision, with the reasons therefor, upon each separate issue, unless the finding upon any one or more of the issue is sufficient for the decision of the suit.”

20. Perusal of the aforesaid provisions clearly indicates that the provisions contained under Rule 5 of Order XX CPC is mandatory and it is the duty of the Court to record its findings on each and every issue separately. However, herein the instant case, the issues have not been decided separately, instead a common consolidated judgment has been passed against the aforesaid mandate of law. This fact has been overlooked not only by the First Appellate Court, but also by the Second Appellate Court.

21. After hearing learned Counsel for the parties and going through the record, this Court finds that the impugned judgment does not stand the judicial scrutiny as it is completely in violation of the provisions of Order XX Rule 5 and Order XIV Rule 2, CPC. The purport of these provisions is that the trial Court after framing issues is supposed to give its finding or decision, with reason upon each separate issue, unless the finding upon any one or more of the issues is sufficient for the decision of the suit or the Court is of the opinion that the case or any part thereof may be disposed of



on an issue of law, it may try that issue first if that issue relates to the jurisdiction of the Court or a bar to the suit created by any law for the time being in force and postpone the settlement of other issues until after that issue has been determined.

22. In the present case, the trial Court has framed the issues and was supposed to give separate findings on each issue, as admittedly the findings upon any one or more of them are not sufficient for the decision of the suit. By simply enumerating the evidence and law and thereafter giving conclusion whereby the case of one party is accepted and the other party is rejected, is no judgment in the eyes of law. In other words, the judgment which does not contain the reasons or grounds on the basis of which the Judge has come to his conclusion/decision for passing a judgment and decree on the points in issue or controversy, is vitiated. It is all the more necessary, when the judgment is by the Court of fact and is appeal-able, to avoid unnecessary delay and protracted litigation. The Hon'ble Supreme Court in **Fomento Resorts and Hotels Ltd. v. Gustavo Ranato Da Cruz Pinto, AIR 1985 SC 736**, has held in paragraph 27 as under:

"In a matter of this nature where several contentions factual and legal are urged and when there is a scope of an appeal from the decision of the Court, it is desirable as was observed by the Privy Council long time ago to avoid delay and protraction of litigation that the Court should, when dealing with any matter dispose of all the points and not merely rest its decision on one single point."

Therefore, by not deciding issues Nos. 1 to 7 separately by referring to material evidence on each issue for and against the





parties and giving reasons for its acceptance or rejection, the impugned judgment is vitiated.

23. On this count alone, the judgments passed by the Trial Court as well as by the Appellate Courts are not sustainable in the eyes of law and the same are liable to be and are hereby quashed and set-aside. The matter is remitted to the SDO with direction to decide the suit afresh in accordance with law by giving findings on issue Nos.1 to 7 separately, without asking the parties to lead further evidence and on the basis of the evidence, documents and material already available on the record.

24. Needless to observe, the fresh judgment shall be passed by the SDO within a period of six months from the date of receipt of certified copy of this order. The reason for issuing such direction is that the matter pertains to the year 2006.

25. For a period of six months, the parties are directed to maintain status quo and the status of the respondents, in the records, shall not be altered/disturbed on the basis of the present order passed by this Court. Thereafter, the parties shall be governed by the judgment passed by the SDO and the appellate courts.

(ANOOP KUMAR DHAND),J

Aayush Sharma /63

