

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 13633/2020

(Arising out of impugned final judgment and order dated 19-12-2019 in SA No. 528/2019 passed by the High Court Of Judicature At Bombay At Nagpur)

PRAKASHCHAND & ORS.

Petitioner(s)

VERSUS

BANSILAL JAINARAYAN SARDA (DEAD)  
THROUGH LRS & ORS.

Respondent(s)

(FOR IA No.117660/2020-EXEMPTION FROM FILING O.T. )

Date : 15-02-2021 This petition was called on for hearing today.

CORAM : HON'BLE MS. JUSTICE INDIRA BANERJEE  
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Mr. B. S. Banthia, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following

O R D E R

We have heard Mr. B.S. Banthia, learned counsel appearing on behalf of the petitioners at length.

This special leave petition is against an order dated 19.12.2019 of the Nagpur Bench of the Bombay High Court dismissing the second appeal being Second Appeal No. 528/2019, filed by the petitioner, with the finding that there was substantial question of law involved.

Mr. Banthia, learned counsel forcefully argued that the High Court erred in law in dismissing the second appeal without framing any question of law. Mr. Banthia submitted that the High Court having observed in paragraph 10 of the impugned judgment and order,

that interpretation of a document may involve a substantial question of law, was obliged to frame question of law. In not framing any question of law, the High Court contravened the mandate of Section 100 of the Code of Civil Procedure (CPC) and in particular Sub-section 3 thereof.

Under Section 100 of the CPC, a second appeal shall lie to the High Court, if the High Court is satisfied that a substantial question of law is involved in the case. If there is no substantial question of law involved, the appeal is liable to be dismissed.

The High Court has observed that the interpretation of a document may give rise to a question of law. However, there was a minor mis-description in the property in this case and no substantial question of law was involved.

Three Courts having concurred in their findings, we are not inclined to interfere with the order of the High Court impugned.

The special leave petition is, accordingly, dismissed.

Pending application stands disposed of.

(MEENAKSHI KOHLI)  
ASTT. REGISTRAR-cum-PS

(MATHEW ABRAHAM)  
COURT MASTER