



REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. OF 2026
(ARISING OUT OF SLP (C) NO.20779 OF 2025)

PRAMOD SHROFF

... APPELLANT(S)

VERSUS

MOHAN SINGH CHOPRA

...RESPONDENT(S)

J U D G M E N T

AUGUSTINE GEORGE MASIH, J.

1. Leave granted.
2. The present appeal raises an important question touching upon the procedural obligations of a civil court while adjudicating a suit *ex parte*, and more particularly, whether the absence of formal framing of issues vitiates such proceedings, and what constitutes a

legally sustainable judgment in such circumstances.

3. The appeal before the High Court was heard *ex parte*. The Respondent, despite service, chose not to enter appearance before the courts below or before this Court. On 05.12.2025, Mr. Anup Kumar, learned Counsel, who was present in the Court was appointed as *Amicus Curiae* to assist this Court in this matter. He was directed to get in touch with Respondent directly in writing, apprise him about pendency of present appeal, his right to engage a counsel of his choice and his right of being represented through a legal aid counsel. Having done so, still the Respondent remains unrepresented.
4. The instant appeal assails the judgment and order dated 21.01.2025 (hereinafter referred as “Impugned Judgment”) passed by the High Court of Calcutta (hereinafter referred as “High Court”), whereby it dismissed the F.A.T No. 47 of 2018 filed by the Appellant (Plaintiff) herein and affirmed the judgment and decree dated

26.10.2017 passed by the City Civil Court at Calcutta (hereinafter referred as “trial court”), vide which suit filed by the Appellant for specific performance for agreement to sell was dismissed *ex parte*.

5. The brief facts are that the original owner of the property executed a 75 years lease in favour of the Khimjis. Thereafter, Khimjis constructed a building on the said property by the name of “Shalimar Apartments”. During construction, the Khimjis entered into a partnership with other persons under the name and style of Gulmohar Properties to complete the construction and sell out the flats therein on ownership basis including, Flat No. 61 in the Shalimar Apartments lying and situate at 42-B, Shakespeare Sarani, Kolkata-700017, along with a car parking space (hereinafter referred as “the suit property”).
6. Later, Gulmohar Properties executed an agreement for sale in relation to the suit

property, in favour of the Balwanis, with a clause for assignment.

7. Pursuant to assignment clause, the Balwanis transferred the property to Mohan Singh Chopra (Respondent-defendant) by a tripartite registered sale deed, in which Gulmohar Properties, the Balwanis and the Respondent were signatories.
8. On 27.01.1977, agreement for sale relating to suit property was executed between Respondent as Vendor and Appellant as Vendee in consideration of ₹95,000/- out of which ₹90,000/- was paid with an undertaking that balance of ₹5,000/- would be paid on the date of execution of Deed of Conveyance and presentation of the same before the Registrar of Assurance. Appellant was also put into the possession of the suit property. Respondent also handed over the original documents, indenture, Title Deeds etc. to the Appellant. On various occasions request was made to the

Respondent to execute the Conveyance Deed by the Appellant but the same did not fructify.

9. The Appellant, with a grievance that despite repeated requests Respondent neither accepted balance amount of ₹5,000/- nor executed Deed of Conveyance in his favour, filed a suit for specific performance for agreement to sell dated 27.01.1977 against the Respondent (Defendant) in relation to the suit property.
10. The courts below rejected the claim of the Appellant on the ground that Appellant failed to prove the title of the Respondent in the suit property.
11. The counsel for Appellant submitted that since no issue qua the title of the Respondent was framed, the onus to prove the same did not fall on the Appellant and the Appellant was not put to notice of the said issue and therefore could not be expected to lead evidence in support of the same. Both the Courts below have disregarded the procedure prescribed i.e., for issues to be framed before trial, as the same

puts the parties to notice of the facts that are required to be proved in a given case.

12. Having heard the learned Counsel for the Appellant, learned *Amicus Curiae*, and considering the written submissions filed by the Appellant and learned *Amicus Curiae*, we find it apposite that prior to undertaking and answering the aforementioned submissions as raised, it is imperative to delve into the statutory provisions as well as the existing jurisprudence as developed by this Court while dealing with such provisions relatable to what are the essential requirements of a valid judgment in an *ex parte* civil suit? And whether the courts below have discharged their obligation in accordance with law while deciding the suit *ex parte*?
13. Sub-section 9 of the section 2 of the Civil Procedure Code, 1908 (hereinafter referred as "CPC") provides that "judgment" means the statement given by the Judge of the grounds of a decree or order.

14. Section 2(2) of the CPC provides that "decree" means the formal expression of an adjudication which, so far as regards the court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final.
15. Order XIV Rule 1(6) explicitly provides that framing of issues is not required where the defendant at the first hearing of the suit makes no defense.
16. Order XX Rule 4(2) states that judgments of Courts shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision.

“ORDER XX

***4. Judgments of Small Cause Courts.—(1)** Judgments of a Court of Small Causes need not contain more than the points for determination and the decision thereon.*

(2) Judgments of other Courts.—Judgments of other Courts shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision.”

17. Though, the framing of issues where defendant does not present a defense is not mandated, still the importance of framing of issues cannot be underscored. This Court in the case of **Makhan Lal Bangal v. Manas Bhunia and Others**¹, while stressing upon the importance of framing of issues held it as an imperative stage in any civil proceedings as it narrows down the scope of trial by separating wheat from the chaff. Therefore, the real dispute between the parties is determined and the conflict between the parties is narrowed. The petition may be disposed of at the first hearing if it appears that the parties are not at issue on any material question of law or of fact and the Court may at once pronounce the judgment.
18. Further, in **Ramesh Chand Ardawatiya v. Anil Panjwani**², it has been opined that the burden of proof on the Plaintiff is not too heavy in *ex parte* civil suits. The Plaintiff, however, must show prima-facie proof qua the existence

¹ (2001) 2 SCC 652

² (2003) 7 SCC 350

of relevant facts and circumstances out of which the cause of action has arisen. Therefore, evincing that the court proceeds to record evidence of the Plaintiff qua the cause of action and accordingly decrees the suit. Further, it held that in a case which has proceeded *ex parte*, the court is not bound to frame issues under Order XIV and deliver the judgment on every issue as required by Order XX Rule 5. Yet the trial court should scrutinize the available pleadings and documents, consider the evidence adduced, and would do well to frame the “points for determination” and proceed to construct the *ex parte* judgment dealing with the points at issue one by one.

19. Furthermore, this Court in ***Maya Devi v. Lalta Prasad***³, has held that in case the Defendant has been proceeded against *ex parte*, it is the duty of the court to pass the decree only after ascertaining the factual and legal veracity of the claim of the Plaintiff.

³ (2015) 5 SCC 588

20. This Court while considering the essential requirements of a judgment in ***Balraj Taneja and Another v. Sunil Madan and Another***⁴ has held that Judgment as defined in Section 2(9) of the CPC means the statement given by the Judge of the grounds for a decree or order. What a judgment should contain is indicated in Order XX Rule 4(2) which says that a judgment ‘shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision. It should be a self-contained document from which it should appear as to what were the facts of the case and what was the controversy which was tried to be settled by the court and in what manner.

“Points for Determination” – Meaning and Role

21. The points for determination in a judgment are essentially the legal and factual issues the court must resolve. They correspond to the issues framed during trial (Order XIV), but

⁴ (1999) 8 SCC 396

in the judgment they are stated as the point(s) to be decided. In ***Rameshwar Dayal v. Banda (dead) through his LRs and Another***⁵, the Apex Court explained that ‘points for determination’ in Rule 4(1) are obviously nothing but ‘issues’ contemplated by Rules 1 and 3 of Order XIV. In practice, the trial court first frames issues (points of controversy) after examination of pleadings, the judgment then recites these as “points for determination” and answers them. These points focus the judgment on the exact matters in controversy between the parties. By explicitly listing points, the judgment guides the parties and the Appellate court to see what questions were in contest. The court must give its finding on each point. Order XX Rule 5 CPC further reinforces this: if issues have been framed in the suit, the court “shall state its finding or decision, with reasons, upon each separate issue”, unless deciding one issue resolves the suit. Thus, points for determination ensure that every controverted issue is

⁵ (1993) 1 SCC 531

addressed. A judgment that omits discussion of issues in dispute is defective. It was held that a Small Causes Court judgment which has not even stated the points for determination and given a finding thereon, is obviously not a judgment within the meaning of Section 2(9) of CPC.

22. Points for determination are the court's restatement of the disputed questions (issues) that were placed before it, and the judgment must answer each. They serve to concentrate the court's reasoning and ensure completeness of adjudication.
23. Even when a defendant fails to appear or file a written statement, the court cannot dispense with the points for determination altogether. In **Balraj Taneja** (*supra*), it was argued that if no written statement is filed the facts as set out in the plaint would be deemed to be admitted and thus, the court need not indicate the points. This Court while rejecting this submission held that 'whether it is a case which is contested by

the defendants by filing a written statement, or a case which proceeds *ex parte* and is ultimately decided as an *ex parte* case, or is a case in which the written statement is not filed and the case is decided under Order VIII Rule 10, the court has to write a judgment which must be in conformity with the provisions of the Code or at least set out the reasoning by which the controversy is resolved'. In other words, even in default or *ex parte* suits, the court should identify the legal points (even if obvious) and give a reasoned answer. Simply granting a decree on default is not enough under Section 2(9) of CPC doing so would be a "material irregularity". Thus, points should be framed (or recited from existing pleadings) and addressed regardless of default.

24. The true scope for framing issues is that evidence let in on issue on which the parties actually went to trial should not be the foundation for decision of another and different issue, which was not present to the minds of the parties and on which they had no opportunity

of adducing evidence. But that rule has no application to a case where the parties go to a trial with knowledge that a particular question is in issue, though no specific issue has been framed thereon and adduce evidence relating thereto. Please refer to ***Nagubai Ammal and Others v. B. Shama Rao and Others***⁶.

25. In ***Sayed Akhtar v. Abdul Ahad***⁷, it was held that omission to frame an important issue may sometimes cause prejudice to parties resulting in failure to lead evidence on the point. But where the parties were not only aware of the point in controversy but also led evidence and advanced their submissions, this Court held that the High Court was not justified in interfering with the finding of facts of the courts below.

26. In the light of the above legal precedents, it can be said that though the framing of issues in an *ex parte* suit is not mandatory by virtue of Order XIV Rule 6 of CPC, but the judgment must be in

⁶ (1956) 1 SCC 698

⁷ (2003) 7 SCC 52

conformity with the provisions of the Code. Thus, Order XX Rule 4 of CPC comes into picture.

27. The courts must determine “points for determination”, which are like issues, and answer them to resolve the matter of controversy between the parties.
28. Though framing of issues, as mentioned above, although, is not mandatory yet, if the omission to frame the same causes prejudice to the parties, then the same can vitiate the trial. The test for finding as to omission to frame the issues have caused prejudice to the parties or not can be laid down on the touchstone as to whether parties that go to trial had knowledge that (i) a particular question is in issue and (ii) had opportunity to lead evidence on that issue.
29. In the present case, the controversy is regarding suit for specific performance of an agreement to sell, therefore, it is important to consider as to what are the key essentials in a suit for specific

performance that a Plaintiff must prove to succeed.

30. As laid down in ***Man Kaur (dead) by LRs v. Hartar Singh Sangha***⁸, there must be a valid contract; that defendant committed breach of and readiness and willingness of the plaintiff to perform his part of contract.
31. In present case, all the three essentials are present. However, the suit was dismissed for lack of title in favour of the Respondent. No issues or points for determination were framed for the same. Appellant at no point was given an opportunity to lead evidence on the same. In the absence of any issues, and especially in the absence of any pleading contesting title of the Respondent, the Appellant could not be expected to prove such title in a suit for specific performance of Agreement to sell. Therefore, omission to frame issues has caused prejudice to the Appellant.

⁸ (2010) 10 SCC 512

32. Hence, the judgment and decree passed by the trial court does not fulfil the requirements of a judgment as provided for under the Code of Civil Procedure, 1908. The judgments and decree of both the courts below are, therefore, not in accordance with law and thus, set-aside.

33. As a result;

- i) Matter shall stand remanded to the trial court for fresh consideration and decision.
- ii) The Appellant-Plaintiff shall appear before the trial court on 04.05.2026.
- iii) Trial court shall issue notice on the Respondent and grant time for completion of pleadings.
- iv) The court shall frame issues and accord opportunity to the parties to lead evidence.
- v) The court shall proceed to decide the same at the earliest keeping in view the fact that the suit is of the year 2007.

34. The Appeal is disposed of in above terms.

35. There shall be no order as to cost.

36. Pending application(s), if any, also stands disposed of.

37. We acknowledge and appreciate the constructive assistance rendered by the learned *Amicus Curiae* and the learned Counsel for the Appellant to this Court.

.....J.
[SANJAY KAROL]

.....J.
[AUGUSTINE GEORGE MASIH]

**NEW DELHI;
APRIL 16, 2026.**