

(2026) 07 CAL CK 0145

In the Calcutta High Court, Original Side

Case No : APD/2/2026 with CS/193/2017, IA No. GA/1/2024

Rani Jena

APPELLANT

Vs

Bhola Yadav

RESPONDENT

Date of Decision : 22-07-2026

Acts Referred:

Citation : (2026) 07 CAL CK 0145

Hon'ble Judges : Debangsu Basak, J;Ajay Kumar Gupta, J

Bench : Division Bench

Advocate : Mr. Anirban Pramanick, Adv., Mr. Punarbasu Nath, Adv., Ms. Bhagyasree Dey, Adv. for the Appellant; Mr. S. E. Huda, Adv., Mr. Sk. Aptabuddin, Adv., Ms. Nabeela Akhar, Adv., Ms. Saima Amin, Adv., Mr. Mrinmay Mukherjee, Adv. for the Respondent

Final Decision : Dismissed

Judgement

1. Appeal is directed against the judgment and decree dated November 10, 2022.
2. By the impugned judgment and decree, learned Single Judge decreed the suit for recovery of money lent and advanced in favour of the plaintiff/respondent.
3. Learned advocate appearing for the appellant submits that, the appellant was married to the respondent herein. Due to matrimonial disputes, the appellant left the respondent. Appellant never took a loan from the respondent. In support of the contention that the appellant was married to the respondent, a policy of the Life Insurance Corporation of India taken out by the respondent is relied upon by the learned advocate for the appellant.
4. Learned advocate for the appellant submits that, the learned Single Judge did not frame any issues in the suit. There is no discussion with regard to the issues involved in the suit. He contends that, in absence of any issues being framed in the suit, learned Single Judge erred in passing the impugned decree. In support of such contention, he relies upon 2026 SCC OnLine 598 (Pramod Shroff -Vs- Mohan Singh Chopra).

5. Learned advocate appearing for the appellant submits that, even if no issues were framed, learned Single Judge was required to state the points for determination falling in the suit. Even that was not stated by the impugned judgment and decree.

6. Learned advocate appearing for the appellant submits that, there are issues with regard to limitation and cause of action. None of those issues were dealt with by the impugned judgment and decree.

7. Learned advocate appearing for the appellant submits that, Exhibit-3 does not contain the signature of the appellant. He draws the attention of the Court to the sale deed which was disclosed by the appellant at the trial to compare the signature of the appellant with that of the purported money receipt.

8. Plaintiff/respondent is represented.

9. The suit is for recovery of money lent and advanced. Plaintiff case is that, since, the families of the two parties were known to each other, respondent lent and advanced a sum of Rs.18.25 lakhs to the appellant over a period of time. Last advance by the respondent to the appellant was on February 1, 2017. Such amount was advanced in order to allow the appellant to purchase a flat.

10. The appellant not repaying the money lent and advanced, the respondent was constrained to file the suit for recovery of such money lent and advanced, in 2017.

11. After the suit was filed, the appellant entered appearance. Appellant, however, did not file written statement. Suit was posted as undefended suit.

12. At the trial, the appellant was not represented. Plaintiff examined one witness and tendered various documents which were marked as exhibits.

13. Documents tendered in evidence establish that a sum of Rs.18.25 lakhs was lent and advanced by the respondent to the appellant from time to time.

14. Documents marked as exhibits at the trial also establish that, the appellant repaid a portion of the loan being a sum of Rs.44,000/- on three dates, namely, June 13, 2016, December 23, 2016 and February 7, 2017.

15. Suit was filed in the year 2017. Last advance made by the respondent to the appellant was on February 1, 2017. Last part payment was made on February 7, 2017. Therefore, the issue of limitation must be answered in favour of the respondent. Suit was within the period of limitation.

16. Plaintiff thus discloses a cause of action. Suit is for recovery of money lent and advanced. Plaintiff discloses documents on the basis of which the claim of the plaintiff was founded. At the trial also, the respondent established a cause of action. Therefore, the issue with regard to plaintiff not disclosing a cause of action is answered by holding that the plaintiff does so.

17. So far as signature of the appellant on the documents marked as exhibits is

concerned, it appears that, at the trial, the signature of the appellant was identified by the witness of the plaintiff and such signature was marked as exhibit. Moreover, the appellant require us to compare the signature of the respondent appearing in documents marked as exhibits at the trial with that of document which is not marked as an exhibit. The sale deed referred to by the appellant was not tendered in evidence at the trial. We are, therefore, not in a position to compare such signature.

18. Pramod Shroff (Supra) arose out of a suit for specific performance of a contract for sale of an immovable property. The suit was dismissed for sale of title in favour of the vendor without any issue as to lack of title of the vendor being framed. In such factual background on the score of framing of issues, it held as follows:-

“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 cause 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.”

19. In the facts and circumstances of the present case, the suit is for recovery of money lent and advanced. Appellant as defendant in the suit was well aware of the same. The appellant as the defendant did not appear at the trial of the suit. The appellant did not file any written statement in the suit. No prejudice is demonstrated or established to be caused to the appellant by the so called non framing of the issues and the points for determination at the trial. The appellant was aware of the issue i.e. recovery of money lent and advanced. Appellant disqualified herself by her own conduct from leading any evidence by permitting the suit to be set down as an undefended suit.

20. Learned Single Judge considered the documents tendered in evidence and the oral testimony of the witness of the plaintiffs. Money receipts establish that the respondent lent and advanced the sum of Rs. 18.25 lakhs to the appellant. Appellant repaid Rs. 44,000/- as will appear from the bank statement. Learned Single Judge passed the decree for the unpaid amount alongwith interest.

21. In such circumstances, we find no ground to interfere with the impugned judgment and decree.

22. APD/2/2026 along with connected application is dismissed, without any order as to costs.

OPINION OF AJAY KUMAR GUPTA, J.

23. I agree.