

IN THE HON'BLE HIGH COURT OF JUDICATURE AT

Civil Second Appeal No. \_\_\_\_\_ of 20\_\_.

**IN THE MATTER OF:**

Mr. ABC

Appellant

Versus

Mr. CDE

Defendant/Respondent

Mr. FGH

Proforma Plaintiff/Respondent

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**IN THE MATTER OF SECOND APPEAL UNDER SECTION 100 OF  
CODE OF CIVIL PROCEDURE, 1908**

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**To,**

**THE HON'BLE CHIEF JUSTICE & OTHER COMPANION JUDGES  
OF THE HIGH COURT OF JUDICATURE FOR \_\_\_\_\_ AT**

\_\_\_\_\_.

**MAY IT PLEASE YOUR LORDSHIPS:**

The humble appellant respectfully submits as under:

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. ....

### **GROUND 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 by-passing judicial approach and justice in the matter.
2. Because under \_\_\_\_\_, 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.

**PRAYER:**

In view thereof it is humbly and most respectfully prays that the Hon'ble Court may be pleased to:

1. Allow the appeal.
2. Dismiss the suit of the plaintiff/respondent by setting aside the judgment of the trial Court.

3. Any other order or direction which is favorable to the Appellant in the facts and circumstances of the case may kindly be granted to the appellant.

Dated

**COUNSEL FOR APPELLANT**

**NOTE: THIS APPEAL HAS TO BE SUPPORTED BY AFFIDAVIT.**