



2026:CGHC:17138-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

First Appeal No. 6 of 2026

Judgment Reserved on : 10.04.2026

Judgment Pronounced on : 15.04.2026

Judgment (Full) Uploaded on: 15.04.2026

Ramkumar, S/o Puran Lal, aged about 52 years, R/o Birkoni, Tehsil and District Mahasamund (Chhattisgarh)

... **Appellant**

Versus

Tekram, S/o Dharmu, aged about 50 years, R/o Operator/Owner of Sahu Furnututre, in front of Revenue Court, Janpad Panchayat and Veterinary Hospital Compound, Mahasamund, Tehsil and District Mahasamund (Chhattisgarh)

... **Respondent**

[Cause-title taken from Case Information System (CIS)]

For Appellant : Mr. Shubhank Tiwari, Advocate

Division Bench

Hon'ble Shri Justice Sanjay K. Agrawal and

Hon'ble Shri Justice Sachin Singh Rajput

CAV Judgment

Sanjay K. Agrawal, J

Present Appeal

1. In this appeal filed under Section 96 read with Order 41 Rule 1 of the Code of Civil Procedure, 1908 (for short the "CPC") the appellant/plaintiff is calling in question legality, validity and

correctness of impugned judgment and order dated 30.10.2025, passed in Civil Suit No.Unregistered B/2025 (Ramkumar v. Tekram) by the Principal District Judge, Mahasamund (CG), whereby his suit has been dismissed finding no merit.

Factual Matrix:

2. The respondent/defendant filed a complaint under Section 138 of the Negotiable Instrument Act, 1881 (for short the “NI Act”) against the appellant/plaintiff complaining that the appellant/plaintiff has borrowed Rs.6,00,000/- from him on 14.03.2014 and promised to pay back within a period of two months, which he did not pay back and, when the respondent/defendant demanded the money from the appellant/plaintiff, he gave a cheque dated 02.06.2014 of Corporation Bank vide No.002942, which stood dishonoured on being presented at the Bank. Thereafter, the respondent/defendant after serving legal notice on the appellant/plaintiff filed complaint in the Court of Judicial Magistrate First Class, Mahasamund (for short “JMFC”) being Criminal Case No.12/2014 (Tekram v. Ramkumar). The said criminal Court by judgment and order dated 17.02.2020 held the appellant/plaintiff guilty for offence under Section 138 of the NI Act and sentenced him for six months simple imprisonment and, further, in light of Section 357(3) of CrPC ordered the appellant/plaintiff to pay Rs.6,50,000/- to the respondent/defendant as compensation.

3. Feeling aggrieved by the judgment and order dated 17.02.2020, passed by the learned JMFC, the appellant/plaintiff preferred an appeal before the Appellate Court. The appellate Court vide its judgment and order dated 06.08.2024 though dismissed the appeal of the appellant/plaintiff but the sentence of six months simple imprisonment was modified to till the rising of the Court and fine/compensation amount was also enhanced to Rs.12,00,000/-.

4. The appellant/plaintiff instead of questioning the aforesaid orders passed by the Criminal Court as well as by the appellate Court dated 17.02.2020 & 06.08.2024 respectively before this Court in revisional jurisdiction decided to file a civil suit before the Civil Court, Mahasamund on the ground that he is not the debtor of the respondent/defendant and there is no legally enforceable debt or liability upon him and, therefore, the judgment and order passed by the learned JMFC dated 17.02.2020, affirmed by the appellate Court vide order dated 06.08.2024, be set aside.

5. The trial Court by its impugned order dated 30.10.2025 dismissed the suit of the appellant/plaintiff holding that the order of the criminal Court dated 17.02.2020 as well as order of the appellate Court dated 06.08.2024, are challengeable before this Court under revisional jurisdiction and a suit for the said purpose cannot be entertained. Feeling aggrieved and dissatisfied with the order dated 30.10.2025, passed by the trial Court, whereby appellant/plaintiff's suit for declaration of orders dated 17.02.2020 & 06.08.2024, passed

by the learned Criminal Court and Appellate Court as void and illegal, has been dismissed, this appeal has been filed.

Submission of appellant/plaintiff :

6. Mr. Shubhank Tiwari, learned counsel for the appellant/plaintiff submits that the learned Civil Court is absolutely unjustified in rejecting the suit without being registering the same, as it ought to have been registered and then it ought to have been heard on admission as per Order 4, 5, 6 & 7 of CPC and Rule 37 to 41 of the Civil Court Rules and the same could not have been rejected invoking Order 7 Rule 11 of the CPC. As such, the order impugned dated 30.10.2025 be set aside and matter be remanded back to the Civil Court for hearing and disposal of the suit afresh in accordance with law.

7. We have heard learned counsel for the appellant, considered the rival submissions made on behalf of the appellant/plaintiff hereinabove and went through the record with utmost circumspection.

Jurisdiction of Civil Court under section 9 of the CPC:

8. Section 9 of the CPC reads as under:

“9. Courts to try all civil suits unless barred .-

The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.

Explanation-I -A suit in which the right to property or to an office is contested is a suit of a civil nature,

notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

Explanation II .-For the purposes of this section, it is immaterial whether or not any fees are attached to the office referred to in Explanation I or whether or not such office is attached to a particular place.”

9. A focus perusal of Section 9 aforesaid would show that it is clear wherever the jurisdiction of the Civil Court is expressly or impliedly barred, the Civil Court will have no jurisdiction to entertain suit.

10. The Supreme Court in the matter of **Firm Seth Radha Kishan v. Administrator, Municipal Committee, Ludhiana**¹ held that even if there is no specific exclusion of the jurisdiction of the Civil Court, but if it creates a liability not existing before and gives a special and particular remedy for the aggrieved party, the remedy provided by it must be followed and observed in Para-7 & 8 as under:

“7. Under Section 9 of the Code of Civil Procedure the Court shall have jurisdiction to try all suits of civil nature excepting suits of which cognizance is either expressly or impliedly barred. A statute, therefore, expressly or by necessary implication, can bar the jurisdiction of civil Courts in respect of a particular matter. The mere conferment of special jurisdiction on a tribunal in respect of the said matter does not in itself exclude the jurisdiction of civil courts. The statute may specifically provide for ousting the jurisdiction of civil Courts ; even if there was no such specific exclusion, if it creates a liability not existing before and gives a special and Particular remedy for the aggrieved party, the

1 1963 SCC Online SC 138

remedy provided by it must be followed. The same principle would apply if the statute had provided for the particular forum in which the said remedy could be had. Even in such cases, the Civil Court's jurisdiction is not completely ousted. A suit in a civil Court will always lie to question the order of a tribunal created by a statute, even if its order is, expressly or by necessary implication, made final, if the said tribunal abuses its power or does not act under the Act but in violation of its provisions.

8. Let us now apply the said principles to the facts of the present case. The liability to pay terminal tax is created by the Act and remedy is given to a party aggrieved in the enforcement of that liability. As has been already indicated, against the order of the municipal committee levying terminal tax an appeal lies to the Deputy Commissioner and a reference to the High Court. Applying one of the principles stated supra, the party aggrieved can only pursue the remedy provided by the Act and he cannot file a suit in a civil Court in that regard. Provisions of Sections 84 and 86 of the Act exclude the jurisdiction of the civil Court in respect of the tax levied or the assessment made under the Act.”

11. Similarly, the Supreme Court in the matter of **Jitendra Nath Biswas vs. M/s. Empire of India and Ceylone Tea Co. and another**² while considering the scope of jurisdiction of the Civil Court qua Section 9 of the CPC has held that when the relief of reinstatement and back-wages is available under the provisions of the Industrial Disputes Act, 1947 such a relief cannot be granted by the Civil Court, as the provisions of the Industrial Disputes Act, 1947 impliedly excludes the jurisdiction of the Civil Court with regard to such a relief and observed patiently as under:

² AIR 1990 SC 255

“5. It is therefore clear that this Act i.e. Industrial Disputes Act not only confers the right on a worker for reinstatement and backwages if the order of termination or dismissal is not in accordance with the Standing Orders but also provides a detailed procedure and machinery for getting this relief. Under these circumstances therefore there is an apparent implied exclusion of the jurisdiction of the civil court. In Dhulabhai's case a five-Judges Bench of this Court considered the language of Section 9 and the scope thereof in respect of exclusion of jurisdiction and it was observed:

"Where there is no express exclusion the examination of the remedies and the scheme of the particular Act to find out the intendment becomes necessary and the result of the inquiry may be decisive. In the latter case, it is necessary to see if the statute creates a special right or a liability and provides for the determination of the right or liability and further lays down that all questions about the said right and liability shall be determined by the tribunals so constituted, and whether remedies normally associated with actions in civil courts are prescribed by the said statute or not."

It is therefore clear that the scheme of the Industrial Disputes Act clearly excludes the jurisdiction of the civil court by implication in respect of remedies which are available under this Act and for which a complete procedure and machinery has been provided in this Act.”

12. Similarly, in Ramkanya Bai and another v. Jagdish and others³, their Lordships of the Supreme Court have held that the Civil Court can entertain any suit of civil nature except those, cognizance of which is expressly or impliedly barred and observed as under:

“15. Having regard to section 9 of the Code of Civil

3 (2011) 7 SCC 452

Procedure, a civil court can entertain any suit of civil nature except those, cognizance of which is expressly or impliedly barred. In *Kamala Mills Ltd. v. State of Bombay* [AIR 1965 SC 1942] this court held in Para-13 & 32 :

"13. the normal rule prescribed by section 9 of the Code of Civil Procedure is that the courts shall (subject to the provisions contained in the Code) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.....

32. Whenever it is urged before a civil court that its jurisdiction is excluded either expressly or by necessary implication to entertain claims of a civil nature, the Court naturally feels inclined to consider whether the remedy afforded by an alternative provision prescribed by a special statute is sufficient or adequate. In cases where the exclusion of the civil Courts' jurisdiction is expressly provided for, the consideration as to the scheme of the statute in question and the adequacy or the sufficiency of the remedies provided for by it may be relevant but cannot be decisive. But where exclusion is pleaded as a matter of necessary implication, such considerations would be very important, and in conceivable circumstances, might even become decisive. If it appears that a statute creates a special right or a liability and provides for the determination of the right and liability to be dealt with by tribunals specially constituted in that behalf, and it further lays down that all questions about the said right and liability shall be determined by the tribunals so constituted, it becomes pertinent to enquire whether remedies normally associated with actions in civil Courts are prescribed by the said statute or not."

13. The Supreme Court in the matter of **KS Venkataraman and Co.**

(P) Ltd. v. State of Madras⁴ has held that where a right is created by statute and a method of enforcing the right or of redressing grievance caused in exercise of enforcement of the right is pointed out by the statute creating such right, then the general remedy of suit will be impliedly barred.

Negotiable Instrument Act, 1881:

14. NI Act has been brought into force to define and amend the law relating to promissory notes, bills of exchange and cheques. Chapter XVIII (Section 138 to 148) provides for penalties in case of dishonour of certain cheques for insufficiency of funds in the accounts. Section 138 read with Section 142 of the NI Act, 1881 specifically provides that in case of a person issues a cheque for the discharge of any debt or liability is returned by the bank unpaid on the account of insufficiency of funds or that it exceeds the amount arranged to be paid from that account by an agreement made with the bank, then such person shall be deemed to have committed an offence. The cause of action for the said offence shall arise on the fulfillment of the conditions provided in the proviso to section 138 and Section 142 of the NI Act. Section 142 provides for cognizance of offences. It provides that the cognizance shall be taken by the Judicial Magistrate First Class or Metropolitan Magistrate on a complaint in writing made by the payee or the holder in due course. Section 143 provides for the power of the Court try cases summarily.

4 AIR 1966 SC 1089

Section 143A provides for the power to direct interim compensation. Section 145 provides for evidence on affidavit. Section 147 provide the offences to be compoundable. Section 148 provides for the power of the Appellate Court to order payment pending appeal against conviction.

15. Thus, NI Act provides a complete code in respect of the offences committed with respect to cheques. The NI Act despite prescribing the penal consequences for an offence under Section 138, does not prescribe a forum for preferring an appeal following a conviction. The above mentioned procedural gap is bridged by the Code of Criminal Procedure, 1973 (CrPC). Under the scheme of the Code, Section 374 provides the substantive right of appeal to a convicted person; specifically, Section 374(3) mandates that any person convicted by a Metropolitan Magistrate or a Judicial Magistrate of the First Class may prefer an appeal to the Court of Session. Consequently, in the absence of a contrary provision in the special statute, the Court of Session remains the appropriate and competent legal forum to entertain an appeal against a judgment of conviction under Section 138 of the NI Act and, thereafter, against the order of Sessions Judge, the revision would lie before this Court under Section 397/401 of the CrPC (corresponding Section 438/442 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023). As such, NI Act creates a liability/Offence and provides a special and particular

remedy to the party aggrieved to enforce that remedy, then that remedy needs to be followed. It is therefore clear that the scheme of the NI Act impliedly excludes the jurisdiction of the civil court under Section 9 of the CPC in respect of remedies which are available under the NI Act and for which a complete procedure and machinery has been provided in the NI Act.

Brief analysis:

16. A bare perusal of the plaint filed by the appellant/plaintiff would show that he preferred a civil suit seeking declaration under Section 34 of the Specific Relief Act, 1963 that: (i) he is not the debtor of the defendant and there is no legally enforceable debt or liability on him and (ii) the judgment and order passed by the learned JMFC dated 17.02.2020, convicting him for offence under Section 138 of the NI Act and sentencing him for a period of six months simple imprisonment with fine/compensation and order passed by the Appellate Court dated 06.08.2024, whereby though the conviction of the appellant/plaintiff was affirmed, but sentence was reduced from six months SI till the rising of the Court and amount of compensation has also been enhanced from Rs.6,50,000/- to Rs.12,00,000/-, be set aside. Since the NI Act creates a liability/offence and provides a specific remedy under Section 397/401 of the CrPC (corresponding Section 438/442 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023) against the order of

Appellate Court affirming the conviction passed by the trial Court/JMFC and modifying the sentence and compensation, then the aforesaid remedy ought to have been followed by the appellant/plaintiff. As such, it is clear that the scheme of the NI Act clearly excludes the jurisdiction of the Civil Court under Section 9 of CPC in respect of remedies which are available under the NI Act, as the NI Act is a complete code and, thus, the relief claimed by the appellant/plaintiff under Section 34 of the Specific Relief Act, 1963 that the appellant/plaintiff is not debtor of the defendant and there is no legally enforceable debt or liability on him, cannot be granted that too when the same is also contrary to the provisions of the Specific Relief Act, 1963 and the jurisdiction of Civil Court is impliedly barred under Section 9 of the CPC.

Conclusion:

17. In view of foregoing analysis, we are of the considered opinion that the learned trial Court absolutely justified in dismissing the suit of the appellant/plaintiff holding that since specific remedy is available to him by filing revision before this Court, the civil suit is not maintainable. We fully agree with the view taken by the learned trial Court. Accordingly, the presnet appeal is liable to be and is hereby **dismissed** summarily without notice to the other side.

sd/-
(Sanjay K. Agrawal)
Judge

sd/-
(Sachin Singh Rajput)
Judge

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