

It is very often a case wherein question is raised that whether a new ground can be raised subsequently which was not raised earlier. The snapshot covers the aspect through various judgements given by the Courts on the given subject and the distinction made by the courts between “a factual controversy” and “a new ground raising a pure legal issue for which no inquiry/proof is required”.

S.N.	Case	Held
	National Textile Corpn. Ltd. v. Naresh kumar Badrikumar Jagad, (2011) 12 SCC 695	19. There is no quarrel to the settled legal proposition that a new plea cannot be taken in respect of any factual controversy whatsoever, however, a new ground raising a pure legal issue for which no inquiry/proof is required can be permitted to be raised by the court at any stage of the proceedings.
2.	Band Box (P) Ltd. v. Punjab & Sind Bank, (2014) 16 SCC 321	6. On the other hand, it was submitted by Mr Vikas Singh, learned Senior Counsel appearing for the respondent Bank that the appellant had raised at an intermediate stage the plea of not being covered under the Public Premises Act, and had subsequently dropped that plea. They had then relied upon the guidelines and, therefore, the plea, which is sought to be raised at a second stage, cannot be allowed to be raised now on the ground of res judicata, as well as constructive res judicata. As far as this objection of Mr Vikas Singh is concerned, inasmuch as the plea raised by Mr Raval is based on a legal submission, we would not like the appellant to be denied the opportunity of raising the legal plea and, therefore, we do not accept this submission.
3	K. Lubna v. Beevi, (2020) 2 SCC 524	“ 10. On the legal principle, it is trite to say that a pure question of law can be examined at any stage, including before this Court. If the factual foundation for a case has been laid and the legal consequences of the same have not been examined, the examination of such legal consequences would be a pure question of law [Yeswant Deorao Deshmukh v. Walchand Ramchand Kothari, 1950 SCR 852 : AIR 1951 SC 16]. 11. No doubt the legal foundation to raise a case by including it in the grounds of appeal is mandated. Such mandate was fulfilled by moving a separate application for permission to urge additional grounds, a course of action, which has already been examined by, and received the imprimatur of this Court in ChittooriSubbanna v. Kudappa Subbanna [(1965) 2 SCR 661 : AIR 1965 SC 1325]. 12. We may also usefully refer to what has been observed by Lord Watson in Connecticut Fire Insurance Co. v. Kavanagh [1892 AC 473] in the following words: (AC p. 480) “... When a question of law is raised for the first time in a court of last resort, upon the construction of a document, or upon facts either admitted or proved beyond controversy, it is not only competent but expedient, in the interests of justice, to entertain the plea. The expediency of adopting that course may be doubted, when the plea cannot be disposed of without deciding nice questions of fact, in considering which the court of ultimate review is placed in a much less advantageous position than the courts below.” 13. In our view, the aforesaid succinctly sets forth the parameters of scrutiny, where the question of law is sought to be raised at the final court stage. There are no “nice questions of fact” required to be decided in the present case which would dissuade us from examining this plea at this stage. We have set forth the undisputed facts aforesaid. Thus, the only question is whether this is a question of law which deserves to be examined, and has ramifications in the present case.”
4	Sanghvi Reconditioners (P) Ltd. v. Union of India [(2010) 2 SCC 733 : AIR 2010 SC 1089	Though it is true that there is no bar in the High court and for that matter this Court entertaining an additional ground, involving a pure question of law, but on facts at hand, in the light of the findings of the Settlement Commission, based on documentary evidence that the goods in question imported by the appellant were actually sold by them to M/s Elektronik Lab, before these were used for repair of ocean going ships, it cannot be held that the additional ground did not involve any investigation into facts. It was thus held that All these factors go to show that the additional ground sought to be raised before the High Court was not only an after thought, adjudication thereon did involve investigation into facts and, therefore, the decision of the High court in not entertaining the additional ground did not suffer from any infirmity.
5	Greater Mohali Area Development Authority v. Manju Jain [(2010) 9 SCC 157	The respondent No.1 raised the plea of non-receipt of the letter of allotment first time before the High Court. Even if it is assumed that it is correct, the question does arise as to whether such a new plea on facts could be agitated before the Writ Court. It is settled legal proposition that pure question of law can be raised at any time of the proceedings but a question of fact which requires investigation and inquiry, and for which no factual foundation has been laid by a party before the Court or Tribunal below, cannot be allowed to be agitated in the Writ Petition. If the Writ court for some compelling circumstances desires to entertain a new factual plea the court must give due opportunity to the opposite party to controvert the same and adduce the evidence to substantiate its pleadings. Thus, it is not permissible for the High Court to consider a new case on facts or mixed question of fact and law which was not the case of the parties before the Court or Tribunal below. (Vide State of U.P. Vs. Dr. Anupam Gupta, AIR 1992 SC 932; Ram Kumar Agrawal & Anr. Vs. Thawar Das (D) through Lrs., (1999) 7 SCC 303; Vasantha Viswanathan & Ors. Vs. V.K. Elayalwar & Ors. (2001) 8 SCC 133; Anup Kumar Kundu Vs. Sudip Charan Chakraborty, (2006) 6 SC 666; Tirupati Jute Industries (P) Ltd. Vs. State of West Bengal, (2009) 14 SCC 406; and Sanghvi Reconditioners (P) Ltd. Vs. Union of India & Ors. (2010) 2 SCC 733. In the instant case, as the new plea on fact has been raised first time before the High Court it could not have been entertained, particularly in the manner the High Court has dealt with as no opportunity of controverting the same had been given to the appellants.