

(2000) 08 SC CK 0089

In the Supreme Court Of India

Case No : Civil Appeal No. 4522 of 2000 (Arising out of SLP (C) No. 13995 of 1999)

Chandragouda and Another

APPELLANT

Vs

Shekharagouda S. Pittanagoudar (Dead) by Lrs. and Others

RESPONDENT

Date of Decision : 11-08-2000

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 100

Citation : (2000) 10 JT 383 : (2000) 10 SCC 617 : (2001) 2 UC 229

Hon'ble Judges : R. P. Sethi, J;K. T. Thomas, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. Leave granted.

2. The impugned judgment was passed in a second appeal by the High Court without formulating any question of law. When Section 100 of the CPC enjoins that formulation of a substantial question of law is sine qua non for invoking jurisdiction thereunder, the High Court should have first addressed itself on that aspect.

3. Shri Ranjit Kumar, learned Counsel submits that, as the respondents have produced documents in the High Court with permission under Order 41, Rule 27 of the Civil Procedure Code, the High Court acted on them also. That is beside the point, for, the formulation of a substantial question of law should have been made in the second appeal, if there was any such question of law. If there is none, then it goes to the root of jurisdiction u/s 100 of C.P.C. Without prejudice to the right of the respondents in raising such a question, if there is any, we set aside the impugned order and remand the case to the High Court for disposal of the said appeal afresh in accordance with law. Parties will maintain status quo in the meanwhile.

4. This appeal is disposed of accordingly.