

RSA No.187 of 2008.

27.3.2019

Present:

Mr. Bimal Gupta, Sr. Advocate with Mr. Vineet Vashishta, Advocate, for the appellant-applicant.

Mr. Romesh Verma, Advocate, for the respondent/non-applicant.

CMP No.11308 of 2018.

The present application, under Section 100 (5) read with Section 151 of the Code of Civil Procedure, has been maintained by the applicant for framing of additional substantial question of law. As per the applicant, additional substantial question of law is required to be framed, at this moment. However, reply to the application has been filed and it is pleaded that additional substantial question of law is required to be framed, as the present matter is to be listed for final arguments.

2. Heard. This Court has gone through the order dated 15th September, 2008, whereby the appeal was admitted on substantial question of law No.3, which reads as under :

"Whether the property inherited by the predecessor-in-interest of respondents No.1 to 5 has lost his character of ancestral nature when the predecessor-in-interest has also purchased certain property which is distinct and separable in the same Khata."

3. Now, the applicant-appellant prays additional substantial question of law, which reads thus :

"Whether the learned Courts below have rightly dismissed the suit of the plaintiff on the basis of submissions made at the time of arguments which were neither pleaded nor proved by the defendants."

4. After going through the record, this Court comes to the conclusion that substantial question of law No.3, which is framed at

the time of admission itself includes substantial question of law intended to be framed by the applicant and this substantial question of law will definitely be considered while the appeal is to be argued, even if, it is not framed, as substantial question of law No.3, is a very exhaustive. This Court finds that at the time of final hearing, additional substantial question of law, as framed, will be taken into consideration, on its own merits. Ordered accordingly. Accordingly, application stands disposed of.

(Chander Bhusan Barowalia)
Judge

27th March, 2019
(CS)