

IA No. 16367 of 2019

In

SA No. 120 of 2012

Hon'ble Sharad Kumar Sharma, J.

Mr. Siddhartha Singh, Advocate for the appellant.

Mr. Tapan Singh, Advocate for the respondents.

The appellant of the present Second Appeal after its admission on 7th November, 2012 and after having ventured to address the Appeal on merits have moved the present Misc Application No. 16367 of 2019 for formulation of additional substantial questions of law, apart from which already constituted to have been framed in the body of the memo of appeal.

In such an eventuality, while exercising my powers under Sub-section (4) of Section 100 of the CPC and looking to the nature of the controversy involved, apart from the substantial questions of law, on which, the Appeal has already admitted, the additional substantial questions of law "B", "D" and "H" are framed as additional substantial questions of law, which are quoted hereunder :-

“(B) As to whether the suit for cancellation of registered instrument is only maintainable in civil court in absence of any provision in Schedule II of U.P.Z.A. & L.R. Act ?

(D) As to whether both the courts below had committed an error of law affecting the rights of the plaintiff by dismissing the suit for cancellation of sale deed on the ground of jurisdiction of civil court instead of returning the plaint for presentation before Revenue Court ?

(H) As to whether the judgment of First Appellate Court is vitiated being

against the mandate of Order 41 Rule 31 CPC as held by Hon'be Supreme Court in case of 2011 (2) R.D. 127, B.V. Nagesh & another Vs. H.V. Sreenivasa Murthy and further held in 2011 (4) SCC 240, H. Siddiqui (Dead) by LRs. Vs. A. Ramalingam ? ”

Misc. Application stands disposed of accordingly.

List this Second Appeal in the week commencing 6th January, 2020.

Interim order to continue till the next date of listing.

(Sharad Kumar Sharma, J.)

Dated 11.12.2019

Shiv