

V
SLP(C)No. 142 OF 1998

ITEM No.202

Court No. 4

SECTION XIA
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.142/1998

(From the judgement and order dated 08/10/1997 in SA 552/89
of The HIGH COURT OF KERALA AT ERNAKULAM)

ABDUL KHADER

Petitioner (s)

VERSUS

BAVA (DEAD) BY LRS.

Respondent (s)

(With prayer for interim relief and Office Report)
(For Final Disposal)

Date : 11/04/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE
HON'BLE MR. JUSTICE ASHOK BHAN

For Petitioner (s) Mr.M.N. Krishnamani, Sr. Adv.
Mr. K. Madhavan, Adv.
Mr. S.R. Setia,Adv.

For Respondent (s) Mr. BV Deepak, Adv.
M/s. T.T.K.-Deepak & Co.,Adv.

UPON hearing counsel the Court made the following
O R D E R

.....L.....I.....T.....T.....T.....T.....J.....
.SP2

Heard counsel for few minutes.
Leave granted.
The appeal is allowed. There shall be no
order as to costs.

.SP1

Ashwani

(S. Krishnan)
Court Master

Signed order is placed on the file.

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.PL56

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2688 OF 2002@@
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(Arising out of SLP(C)No. 142/1998

Abdul Khader

...APPELLANT

VERSUS

Bava (Dead) by Lrs.

...RESPONDENTS

O R D E R@@
CCCCCCCC

.....L.....I.....T.....T.....T.....T.....T.....J
.SP2

Leave granted.
This Court while issuing notice passed the following order:

.....L.....J.....J
.SP1

"Issue notice on the limited question as to whether the High Court had jurisdiction under Section 100 C.P.C. to interfere with pure finding of fact regarding delivery of possession pursuant to the gift deed. Status quo regarding possession shall be maintained till further orders."

.....L.....I.....T.....T.....T.....T.....T.....J.....R
.SP2

This Court repeatedly held that the High Court while entertaining the second appeal under Section 100 C.P.C. acquire jurisdiction to decide the appeal on merits only when it frames substantial questions of law. In the present case we find that the High Court without framing any substantial question of law decided the appeal. On this short ground the judgment under challenge deserves to be set

-2-

aside. We, accordingly, set aside the judgment under challenge and send the matter to the High Court to decide the second appeal in terms of Section 100 of C.P.C. The appeal is allowed. There shall be no order as to costs.

.SP1

.....J.
(V. N. Khare)

New Delhi,
April, 12, 2002

.....J.
(Ashok Bhan)