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SLP(C)No. 3419 OF 2000

ITEM No.38

Court No. 6

SECTION IVA
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.3419/2000

(From the judgement and order dated 19/08/1998 in RSA 768/96
of The HIGH COURT OF KARNATAKA AT BANGALORE)

SHANKARAGOUDA F. THIMMANAGAUDAR(D)BY LRS

Petitioner (s)

VERSUS

FAKIRAPPA BASAPPA HARKUNI (DEAD) BY LRS.

Respondent (s)

(With Appln(s). for c/delay in filing SLP & with prayer for
interim relief)

Date : 19/03/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE
HON'BLE MR. JUSTICE N. SANTOSH HEGDE

For Petitioner (s) Ms. Kiran Suri,Adv.

For Respondent (s) Mr. RS. Hegde,Adv.
Mr. Somiran Sharma,Adv.
for Mr. P.P. Singh,Adv.

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

Leave granted.

The appeal is allowed. There shall be no
order as to costs.

.SP1

(Alka Dudeja)
Court Master

(S. Krishnan)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2158 OF 2001@@
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(Arising out of S.L.P.(C) No. 3419/2000)

Shankaragouda F.Thimmanagoudar (D) by Lrs.. Appellant (s)

Vs.

Fakirappa Basappa Harkuni (D) by Lrs. ... Respondent (s)

O R D E R@@
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.SP2

Leave granted.

Heard counsel for the parties.

This appeal is directed against the judgment of the High Court of Karnataka allowing the second appeal preferred by the plaintiff-respondent, whereby the suit filed by the plaintiff was decreed. This Court on number of occasions has repeatedly held that the High Court acquires jurisdiction under Section 100 of the Code of Civil Procedure to decide a second appeal on merits only when it frames substantial question of law. In this case, we find that the High Court without framing any substantial question of law has allowed the second appeal. It is only on this short ground the appeal deserves to be allowed. We, accordingly, set aside the judgment under challenge and send the case back to the High Court to decide the appeal in terms of Section 100 of the Code of Civil Procedure.

The appeal is allowed. There shall be no order as to costs.

.....L.....I.....T.....T..T....T.....T.....T.....J
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.....J.
(V.N. KHARE)

.....J.
(N.SANTOSH HEGDE)

NEW DELHI
MARCH 19, 2001.