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C.A.No. 6082 OF 1997

ITEM No.110

Court No. 10

SECTION XIA

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

Civil Appeal No. 6082 of 1997

CHINNATHU M.M.C. BEEVI & ANR.

Appellant (s)

VERSUS

SAYYATHU H. KADAR & ANR. Respondent (s)

(With appln.(s) for stay and office report)

Date : 21/08/2003 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL  
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Appellant (s)Mr. T.L.V. Iyer,Sr.Adv.  
Mr. E.M.S. Anam,Adv.

For Respondent (s)Ms. Malini Poduval,Adv.  
Ms. Lalsinglu Rongmei,Adv.

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

Heard learned counsel for the parties from 12.00 noon to 12.10 p.m.

The civil appeal is allowed.

No costs.

[ T.I. Rajput ] [ Shelly Sengupta ]  
Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6082 OF 1997

Chinnathu M.M.C. Beevi & Anr.

...Appellant(s)

Versus

Sayyathu H. Kadar & Anr.

...Respondent(s)

O R D E R

Original Defendant Nos.1 and 3 are in appeal before this Court calling in question the validity and correctness of the impugned judgement of the High Court passed in a second appeal.

At the outset, the learned senior counsel for the appellants submitted that the High Court has committed a serious error in setting aside the concurrent findings of fact recorded by the courts below, that too without considering substantial question of law, if any arose for consideration. Learned counsel added that, even on merits, the appellants have a strong case to succeed.

The learned counsel representing the respondents made submissions supporting the impugned judgement but she was not in a position to show that the High Court considered any substantial question of law before disposing of the second appeal.

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In the view we propose to take, we do not wish to consider the merits of the respective contentions in regard to their claims. The High Court has disposed of the second appeal without indicating as to whether any substantial question of law arose for consideration. This Court has repeatedly taken the view that the High Court has to consider whether any substantial question(s) of law arise for consideration under Section 100 of the Code of Civil Procedure, 1908 before disposing of the second appeal on merits. Since, in the impugned judgement, there is no reference to any substantial question(s) of law, if any, that arose for consideration between the parties as required under Section 100 of the Code of Civil Procedure, 1908, without expressing any opinion one way or the other on the merits of the contentions raised, we allow this appeal, set aside the impugned judgement and remit the second appeal to the High Court to consider afresh whether any substantial question(s) of law arise for consideration and thereafter dispose of the second appeal on merits and in accordance with law. The second appeal being of the year 1989, we expect that the High Court will dispose of the same as expeditiously as possible.

No costs.

.....J.  
[SHIVARAJ V. PATIL]

.....J.  
[D.M. DHARMADHIKARI]  
New Delhi,  
August 21, 2003.