

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).3526/2005

(From the judgement and order dated 25/11/2004 in SA No. 512/1991 of
the HIGH COURT OF BOMBAY AT AURANGABAD)

PRAKASH EKNATH CHOUDHARI & ORS.

Petitioner(s)

VERSUS

RAMCHANDRA GANGARAM SANGOLE(D)BY LRS&ANR

Respondent(s)

(With prayer for interim relief and office report)

Date: 28/09/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE H.S. BEDI

For Petitioner(s) Mr. Uday B. Dube,Adv.
Mr. Kuldip Singh,Adv.

For Respondent(s) Mr. S.C. Bora,Adv.
Mr. Ajay Majithia,Adv.
Mr. Rajesh Kumar,Adv.
Dr. Kailash Chand,Adv.

UPON hearing counsel the Court made the following
ORDER

Leave granted.

Heard the learned counsel for the parties.

The impugned judgment is set aside, the matter is remitted to
the High Court for consideration afresh and the appeal is disposed of in
terms of the signed order.

(A.S. BISHT)
COURT MASTER

(PUSHAP LATA BHARDWAJ)
COURT MASTER

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

CIVIL APPEAL NO. 4584 OF 2007
[Arising out of SLP(C) No.3526/2005]

PRAKASH EKNATH CHOUDHARI AND ORS.
:VERSUS:

... APPELLANT(S)

RAMCHANDRA GANGARAM SANGOLE (D) BY L.RS.
AND ANR.

... RESPONDENT(S)

ORDER

Leave granted.

Having heard the learned counsel for the parties, we are of the opinion that the High Court having not formulated any substantial question of law before notice was issued to the appellants herein and the purported question formulated at the time of hearing, in our opinion, being not a substantial question of law within the meaning of Section 100 of the Code of Civil Procedure, the impugned judgment cannot be sustained which is set aside. Accordingly, the matter is remitted to the High Court for consideration thereof afresh. The High Court may formulate substantial question of law, if any, arising in the second appeal and hear the parties afresh.

The appeal is disposed of with the aforementioned observations and direction.

.....J
(S.B. SINHA)

.....J
(H.S. BEDI)

NEW DELHI,
SEPTEMBER 28, 2007.