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SLP(C)No. 11345 OF 2000

ITEM No.16

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.11345/2000

(From the judgement and order dated 16/09/1998 in CP 121/98  
of The HIGH COURT OF KARNATAKA AT BANGALORE)

MUNISWAMY REDDY

Petitioner (s)

VERSUS

HANUMAKKA & ORS.

Respondent (s)

Date : 12/04/2001 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. Asha Gopalan Nair,Adv.(SCLSC)

For Respondent (s) Mr. S. Ravindra Bhat,Adv.  
Mr. Shiv Kumar Suri,Adv.  
Mr. Naveen R. Nath,Adv.  
Ms. Lalit Mohini Bhat,Adv.

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

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

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

.SP1

(Neelam Kawatra)  
Court Master

(S. Krishnan)  
Court Master

Signed order is placed on the file.

.PL55

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO..... OF 2001@@  
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(Arising out S.L.P.(C)No. 11345/2000)

Muniswamy Reddy

Appellant (s)

versus

Hanumakka & Ors.

Respondent (s)

O R D E R@@  
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.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J  
.SP2

Leave granted.

The plaintiffs-respondents herein filed a suit for partition and the said suit was decreed. Aggrieved, the defendant filed an appeal before the first appellate Court. The first appellate Court allowed the appeal and set aside the decree of the trial court. The plaintiffs preferred the second appeal before the High Court. The High Court, without framing any question of law, allowed the second appeal and restored the decree of the trial court. Against the said judgment, the defendant is in appeal before us.

This Court has repeatedly held that the High Court while deciding the appeal is required to frame the substantial question of law under Section 100 of the Civil Procedure Code. Without framing question of law, the High Court does not acquire jurisdiction to decide the appeal. In this case, the

contd...2/-

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High Court without framing any substantial question of law has allowed the appeal. On this very short ground, this appeal deserves to be allowed. The judgment dated 11.11.1997 in RSA No. 443/1990 and the judgment dated 16.09.1998 in C.P.No. 121/1998 in R.S.A. No. 443/1990 are set aside and the case is sent back to the High Court for deciding the second appeal in terms of Section 100 of the Civil Procedure Code.

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

.SP1

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

New Delhi,  
April 12, 2001.

.....J  
(N.Santosh Hegde)