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C.A.No. 5977 OF 1998

ITEM No.109

Court No. 11

SECTION IVA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No. 5977 of 1998

Chikkathimamma

...

Appellant (s)

VERSUS

D.Thimmaiah

...

Respondent (s)

(With office report)

Date : 15/04/2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N.AGRawal

HON'BLE DR. JUSTICE AR.LAKSHMANAN

For Appellant (s) Mr. Shantha Kr. V.Mahale, Adv.

Mr. Rajesh Mahale, Adv.

Mr. P.Narashimhan, Adv.

For Respondent (s) Mr. S.Rajappa, Adv.

UPON hearing counsel the Court made the following

O R D E R

The civil appeal is allowed in terms of the signed
order.

(Shashi Sareen)

Court Master

(Kanwal Singh)

Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5977 OF 1998

CHIKKATHIMAMMA

...

Appellant (s)

Versus

D. THIMMAIAH

...

Respondent (s)

O R D E R

Heard the parties.

This appeal has been preferred by defendant no. 4 against judgment rendered by Karnataka High Court in second appeal whereby the same has been allowed and the judgments and decrees passed by the trial court as well as the first Appellate Court have been set aside without formulating substantial question of law. It is well settled that in second appeal High Court is obliged to formulate substantial question of law and then decide the same on the question so formulated. In the absence of said procedure adopted by the High Court the impugned judgment suffers from serious legal infirmity.

Accordingly the appeal is allowed, the impugned judgment is set aside and the matter is remitted to the High Court to dispose of the appeal in accordance with law after formulating substantial question of

law, if any. As the suit was filed in the year 1976 the High Court is requested to dispose of the appeal as expeditiously as possible. No costs.

.....J.

(B.N.AGRAWAL)

.....J.

(Dr.AR.LAKSHMANAN)

New Delhi,
APRIL 15, 2004.