

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 1049 OF 2001

RAJESHWARI

Appellant (s)

VERSUS

SHENMUGATHAMMAL AND ORS.

Respondent(s)

(With prayer for interim relief and office report)

Date: 12/09/2007 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. MATHUR

HON'BLE MR. JUSTICE D.K. JAIN

For Appellant(s)

Mr. Sudarshan Rajan

Mr. P. Narasimhan,Adv.

For Respondent(s)

Mr. V. Prabhakar, Adv.

Mr. Ramjee Prasad, Adv.

Mrs.Revathy Raghavan,Adv.

UPON hearing counsel the Court made the following
ORDER

The appeal is allowed in terms of the signed order.

(Sukhbir Paul Kaur)
Court Master

(Vijay Dhawan)
Court Master

(Signed Order is placed on the file)
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1049 OF 2001

RAJESHWARI

Appellant(s)

Versus

SHENMUGATHAMMAL AND ORS.

Respondent(s)

ORDER

We have heard learned counsel for the parties.

This appeal is directed against the order passed by the High Court of Madras in Second Appeal No.101 of 1988 dated 22nd September, 1999 wherein the High Court has not adverted to the questions of law which had been framed at the time of admission of

the appeal. This ought to have been done as required under Section 100 of the Code of Civil Procedure.

Our attention has been drawn to page 68 of the paper book in which the following two questions have been formulated by the High Court:-

(a) Whether the respondents could resist the suit for redemption when the sale deed from the court auction purchaser under whom they claim paramount title is not produced and when the court auction purchaser himself has attested Ex.A.1 Othi deed under which the 1st defendant has taken possession?

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(b) Whether the lower Appellate Court is right in holding that the non production of the sale deed under which the respondents claim is justified on the ground that the sale deed is not registered?

Having perused the impugned order, we find that both the questions have not been specifically answered by the High Court. This Court has repeatedly emphasised that the High Court in the matter of Second Appeal should frame the questions of law and should answer those questions of law and none else, unless it records reasons and satisfaction that the case involves other substantial question of law as well. Otherwise, the scope of Second Appeal is circumscribed by the questions so formulated. (See: Santosh Hazari vs. Pursushottam Tiwari (Dead) by Lrs. (2001 (3) SCC 179). We regret to say that the two questions formulated have not been adverted to in the impugned order passed by the High Court.

In the facts and circumstances of the case, we allow this appeal and set aside the order of the High Court and remit the matter back to the High Court to answer those questions which have been framed by it and to dispose of the Second Appeal again in accordance with law. We are not expressing any opinion on the

merits of the case.

...3/-

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We request the High Court to expedite the hearing of the matter as it is a very old matter.

No order as to costs.

.....J.
(A.K.MATHUR)

.....J.
(D.K.JAIN)

New Delhi,
September 12, 2007.