

**IN THE SUPREME COURT OF INDIA**  
**CIVIL APPELLATE JURISDICTION**  
**CIVIL APPEAL NO.6428 OF 2008**  
**(Arising out of S.L.P. (C) No.5893 of 2007)**

**Sardar Mohd.**

**...Appellant(s)**

**Versus**

**Jag Mohan & Anr.**

**...Respondent(s)**

**O R D E R**

**Heard learned counsel for both the sides.**

**Leave granted.**

**In view of the fact that we are inclined to remand the matter to the High Court for fresh disposal, there is no need to traverse or refer all the factual details.**

**It is seen that the High Court dismissed the Regular Second Appeal at the admission stage finding that both the courts below have concurrently arrived at a conclusion. It is pointed out that the Trial Court decreed the suit only to the extent of refund of earnest money with interest. In appeal, the First Appellate Court allowed the same. In other words, the suit filed by the plaintiff-appellant shall stand decreed in toto.**

**On going through the orders passed by the Trial Court as well as by the First Appellate Court, we are of the view that the High Court ought to have considered the substantial question of law/grounds raised in the second appeal and**

**....2/-**

decided the matter one way or the other. Such a recourse has not been followed by the High Court. In this view, we set aside the impugned order of the High Court dated 7<sup>th</sup> September, 2006, without expressing any opinion on the merits of the case of both the sides. It is for the High Court to consider the case of both the parties and dispose of the second appeal in accordance with law as expeditiously as possible.

The civil appeal is, accordingly, disposed of.

[P. SATHASIVAM] .....J.

[G.S. SINGHVI] .....J.

New Delhi,  
November 03, 2008.