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C.A.No. 3300 OF 1999
.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp
L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....T.....R
ITEM No.101 Court No.9 SECTION IVA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO.3300 OF 1999@@
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Bhoja Poojary Appellant (s)

VERSUS

P. Vittal Shetty Respondent (s)
(With office report)

Date : 05/12/2001 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.C. LAHOTI
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Appellant (s) Mr. N. Ravindra Nath, adv.
Mr. S. Ravindra Bhat, adv.

For Respondent (s) Mr. S.N. Bhat, adv.

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

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.SP2

The appeal is allowed in terms of the signed order.
No order as to costs.

.SP1

(Neena Verma)
Court Master

(Radha Rani Bhatia)
Court Master

Signed order is placed on the file.

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.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp
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.PL54

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3300 OF 1999@@

Bhoja Poojary Appellant

Versus

P. Vittal Shetty Respondent

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

On 9th day of July, 1998 the High Court disposed of a Second Appeal under Section 100 of the C.P.C. filed in the year 1992 without framing a substantial question of law, as mandatorily provided by sub-sections (4) and (5) of Section 100 of the C.P.C. This material infirmity strikes at the very root of the jurisdiction exercised by the High Court. It is pertinent to note that the second appeal has been allowed by the High Court and the decree passed by the First Appellate Court has been reversed.

For the short reason of failure of the High Court to comply with the mandatory provisions of Section 100 of the C.P.C., the appeal is allowed and the impugned judgment of the High Court is set aside. The Second Appeal shall stand restored on the file of the High Court. The High Court shall first examine and satisfy itself if a substantial

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question of law is involved in the case and if so, then, formulate that question and confine the hearing of appeal on the question so formulated. Needless to say, if the High Court does not feel satisfied of the availability of any substantial question of law arising in the case, then, the appeal shall be liable to be dismissed in limine.

The appeal is, accordingly, allowed. No order as to costs.

.SP1

.....J.
(R.C. LAHOTI)

New Delhi,
December 05, 2001.

.....J.
(BRIJESH KUMAR)