

C.A.No. 1381 OF 1999

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1381 OF 1999

OUSEPH OUSEPH (DEAD) THRU. LRS. & ANR. APPELLANTS

VERSUS

KUDAMALoor TAMIL V. BRAHMA SAMAJAM NO.43 RESPONDENT

O R D E R

It is yet another case where the second appeal has been disposed of by the High Court by the impugned judgment without formulating any substantial question or questions of law, if arose for consideration between the parties. By the impugned judgment, the High Court set aside the concurrent findings recorded by both the courts below. The impugned judgment does not even indicate as to whether any substantial question or questions of law arose for consideration. The learned counsel on either side did not dispute this position. The impugned judgment cannot be sustained on the short ground that the High Court disposed of the second appeal without formulating any substantial question or questions of law as required under Section 100 of the Civil Procedure Code.

..2/-

.2.

This being the position, without expressing on the merits of the respective contentions, we set aside the impugned judgment, remit the second appeal to the High Court to formulate substantial question or questions of law, if arise between the parties, as required under Section 100 of the Civil Procedure Code and dispose of the second appeal. All the contentions of the parties are left open to be urged before the High Court. The appeal is allowed accordingly. No costs.

[SHIVARAJ V. PATIL]

.....J.

New Delhi, [D.M. DHARMADHIKARI]
March 16, 2004.
ITEM No.106

Court No. 9

.....J.

SECTION XIA

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.1381/1999

OUSEPH OUSEPH (DEAD) THRU. LRS. & ANR. APPELLANT(S)

VERSUS

KUDAMALLOOR TAMIL V. BRAHMA SAMAJAM NO. 43

RESPONDENT(S)

Date : 16/03/2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Appellant (s)Mr. Mathai M. Paikeday, Sr.Adv.
Mr. Ramesh Babu M.R., Adv.

For Respondent (s)Mr. Subramonium Prasad, Adv.
Mr. R. Gopala Krishnan, Adv.
Mr. Abhay Kumar, Adv.

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

Mr. Mathai M. Paikeday, learned Senior counsel for the appellants started his arguments at 3.15 p.m. and concluded at 3.30 p.m. Thereafter, Mr. Subramonium Prasad, learned counsel for the respondent made his submissions for 5 minutes.
The appeal is allowed with no costs in terms of the signed order.

Sarita (Shelly Sengupta)
Court Master

(Signed order is placed on the file)