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C.A.No. 1358 OF 1999

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1358 OF 1999

SAKKU BAI AMMAL & ANR. ... APPELLANTS

VERSUS

SARASWATI AMMAL ... RESPONDENT

O R D E R

This appeal is by the defendants assailing the judgment and decree passed by the High Court in a second appeal.

The learned counsel for the appellants at the outset urged that the impugned judgment cannot be sustained on a short ground that the second appeal was disposed of by the High Court without formulating any substantial question or questions of law, if arose for consideration between the parties, as mandatorily required under Section 100 Civil Procedure Code (for short, 'the CPC'). He also made some submissions to contend that on merits also the impugned judgment passed by the High Court is wrong. The learned

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counsel for the respondent did not dispute that the impugned judgment was rendered by the High Court without formulating any substantial question or questions of law.

In the view we are proposing to take, it is not necessary for us to deal with the respective contentions urged on behalf of the parties on merits. This Court has repeatedly ruled that it is necessary to formulate substantial question or questions of law, if arise for consideration between the parties under Section 100 of the CPC. Since the impugned judgment suffers from this legal infirmity of not formulating any substantial question or questions of law in a second appeal, it cannot be sustained. In this view, the impugned judgment is set aside, the second appeal is remitted to the High Court to formulate a substantial question or questions of law, if arise between the parties and to 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.

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Having regard to the age of the case, we expect the High Court to dispose of the second appeal as expeditiously as possible.

[SHIVARAJ V. PATIL]

.....J.

New Delhi, [D.M. DHARMADHIKARI]
March 16, 2004.
ITEM No.105 Court No. 9

.....J.

SECTION XII

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.1358/1999

SAKKU BAI AMMAL & ANR.

APPELLANT(S)

VERSUS

SARASWATI AMMAL
(With office report)

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. S. Ravi Shankar, Adv.

For Respondent (s)Ms. K. Sharda Devi, Adv.

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

Heard learned counsel for the parties for 10 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)