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C.A.No. 5111 OF 1997

ITEM No.106

Court No. 9

SECTION XIV

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. 5111 of 1997

PARAS RAM Appellant (s)

VERSUS

TILAK RAJ & ORS.Respondent (s)

(With office report)

Date : 23/09/2003 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)Ms. Naresh Bakshi,Adv.

For Respondent (s)Mr. Arvind Kumar,Adv.

Ms. Laxmi Arvind,Adv.

Mr. S.C. Sharma,Adv.

Ms. Poonam Prasad,Adv.

Ms. Jaya Sinha,Adv.

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

Heard the learned counsel for the parties for a while.

The civil appeal is allowed.

No costs.

[T.I. Rajput][Shelly Sengupta]
Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5111 OF 1997

Paras Ram ...Appellant(s)

Versus

Tilak Raj & Ors.

...Respondent(s)

O R D E R

Heard the learned counsel for the parties.

This appeal is disposed of on the short question, namely, whether the impugned judgement can be sustained in the absence of a substantial question of law having been formulated by the High Court while disposing of the second appeal?

This appeal is filed by the plaintiff challenging the judgement and decree passed by the High Court in a second appeal. The suit filed by the plaintiff was decreed by the trial court. The first appellate court did not disturb that decree but the High Court, in a second appeal, reversed the decree passed by the first appellate court, affirming the decree passed by the trial court. A perusal of the impugned judgement shows that the High Court did not formulate any substantial question(s) of law, as is required under Section 100 of the Code of Civil Procedure, 1908. This Court has

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repeatedly stated that substantial question(s) of law are to be raised by the appellant and the second appeal could be admitted for consideration only upon formulation of substantial question(s) of law that arise between the parties. In the absence of any substantial question(s) of law, it is difficult for us to sustain the impugned judgement.

On this short ground alone, this appeal is entitled to succeed. It is, accordingly, allowed.

The impugned judgement and decree are set aside. The second appeal is remitted to the High Court for consideration afresh after formulating substantial question(s) of law, if arise for consideration, and for disposal in accordance with law.

We, however, do not wish to express any opinion on the merits of the contentions raised in this appeal.

No costs.

.....J.
[SHIVARAJ V. PATIL]

.....J.
[D.M. DHARMADHIKARI]

New Delhi,
September 23, 2003.