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C.A.No. 195 OF 2000  
IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.195 OF 2000

CHOWDAMMA ... APPELLANT

VERSUS

AMMAYYA & ORS. ... RESPONDENTS

O R D E R

This is yet one more judgment passed in the second appeal by the High Court disturbing the current findings of fact recorded by two courts below without considering and formulating substantial question or questions of law if arose for consideration between the parties, as required under Section 100 of the Code of Civil Procedure, 1908 ('the C.P.C.', for short).

This Court on 22.2.1999 issued notice to show cause as to why the impugned judgment should not be set aside in view of limited jurisdiction under Section 100 of the Code of Civil Procedure as laid down by this Court in the case of Kshitish Chandra Purkait vs. Santosh Kumar Purkait & Ors. (1997) 5 SCC 438.

..2/-

.2.

Learned counsel for the appellant submitted that perusal of the impugned judgment shows that no substantial question or questions of law were formulated before disposing of the second appeal.

Learned counsel for the respondent was not in a position to contradict this position. This Court has repeatedly ruled that the High Court could dispose of the second appeal only after considering whether substantial question or questions of law arise for consideration between the parties, as essentially required under Section 100 of the CPC. This having not been done, the impugned judgment suffers from serious infirmity. Consequently, the impugned judgment cannot be sustained. Hence, the impugned judgment is set aside, the second appeal is remitted to the High Court for formulation of substantial question or questions of law, if arise for consideration between the parties and dispose of the second appeal. The appeal is allowed accordingly. No costs.

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

New Delhi, [ B.N. SRIKRISHNA ]  
December 02, 2004.  
ITEM NO.106 COURT NO.6 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. 195 OF 2000

CHOWDAMMA

Appellant (s)

VERSUS

AMMAYYA & ORS  
(With office report )

Respondent(s)

Date: 02/12/2004 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL  
HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Appellant(s)Mr. Shantha Kumar V. Mahale, Adv.  
Mr. Rajesh Mahale, Adv.  
Mr. P. Narasimhan, Adv.  
Mr. S. Manjunath, Adv.

For Respondent(s)Mr. M. Girish Kumar, Adv.  
Mr. S.K. Kulkarni, Adv.  
for Mr. Khwairakpam Nobin Singh,Adv.

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

Heard learned counsel for the parties for five 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)