

C.A.No. 1378 OF 1998

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1378 OF 1998

RATTAN CHAND

.....  
APPELLANT(S)

:VERSUS:

KALA DEVI & ORS.

.....  
RESPONDENT(S)

O R D E R

Heard the learned counsel for the appellant. No one appears for the respondents though served .  
Learned counsel for the appellant submits that the High Court has gone into the question of fact and has upset the findings of fact recorded by the First Appellate Court. It is also indicated that no substantial question of law was formulated while admitting or deciding the second appeal.

It appears that the suit filed by the respondents was dismissed but the First Appellate Court had decreed the suit of the plaintiff. The Judgment of the First Appellate Court has been set aside in second appeal. We feel that it was necessary to have formulated a question of law in compliance of Section 100(4) CPC. The Learned counsel for the appellant has referred to the decisions of this Court in Md. Mohammad Ali (dead) by L.Rs. vs. Jagadish Kalita & ors. (2004) 1 SCC 271, Janki Narayan Bhoir vs. Narayan Namdeo Kadam (2003) 2 SCC 91 and Kanhaiyalal & ors. vs. Anupkumar & ors. (2003) 1 SCC 430.

In view of the position indicated above, we allow the appeal, set aside the Judgment and Order passed by the High Court and remand the matter for deciding the second appeal after formulating substantial question of law arising for consideration in the second appeal.

.....J  
( BRIJESH KUMAR )

.....J  
( ARUN KUMAR )  
NEW DELHI;  
APRIL 01, 2004.

ITEM No.104

Court No.11

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.1378 OF 1998

RATTAN CHAND

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APPELLANT(S)

:VERSUS:

KALA DEVI & ORS.

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RESPONDENT(S)

(With Office Report)

Date : 01/04/2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE BRIJESH KUMAR

HON'BLE MR. JUSTICE ARUN KUMAR

For Appellant (s)Mr. J.S. Attri,Adv.

For Respondent (s)

UPON hearing counsel the Court made the following

O R D E R

Heard the learned counsel for the appellant for about half an hour.

The appeal is allowed, the Judgment and order passed by the High Court is set and the matter is remanded for deciding the second appeal in terms of the signed order.

(A.S. BISHT) (PROMILA NAGPAL)

COURT MASTER

COURT MASTER

[Signed order is placed on the file]