

SLP(C)No. 16124-16125 OF 2001

ITEM No.206

Court No. 4

SECTION IVA
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Civil) No.16124-16125/2001

(From the judgement and order dated 12/6/97 & 29/03/2001 in RP
614/85 & 205/01 of The HIGH COURT OF KARNATAKA AT BANGALORE)

UJJAKAL NINGAPPA (D) BY LRS.

Petitioner (s)

VERSUS

YERABALU GANGAWWA & ANR.

Respondent (s)

(With Appln(s). for c/delay in filing SLP and office report)
(For Final Disposal)

Date : 19/04/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE
HON'BLE MR. JUSTICE ASHOK BHAN

For Petitioner (s) Mr. Naresh Kaushik, Adv.
Ms. Shilpa Chohan, Adv.
Mr. Rajesh Singh, Adv.
for Mrs Lalita Kaushik, Adv.

For Respondent (s)

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

.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J
Heard counsel for two minutes.

Delay condoned.

Leave granted.

The appeals are allowed. There shall be no order
as to costs.

.SP1

(Alka Dudeja)
Court Master

(S. Krishnan)
Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 2838 and 2839 OF 2002@@
CC
(Arising out of S.L.P.(C) Nos. 16124-16125 of 2001)

UJJAKAL NINGAPPA (D) BY LRS. ... Appellant (s)

VERSUS

YERABALU GANGAWWA & ANR. ... Respondent (s)

O R D E R@@
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Leave granted.

Despite service none has appeared on behalf of the respondents. We, therefore, proceed to decide the appeals on merits.

This Court, on numerous occasions, has pointed out that the High Court while deciding the second appeal is first required to formulate substantial question of law under Section 100 of the Civil Procedure Code and only then it acquires jurisdiction to decide the second appeal on merits. In the present case, what we find is that the High Court, without formulating any substantial question of law, proceeded to decide the second appeal on merits. On this short ground alone, these appeals deserve to be allowed.

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We, therefore, set aside the order and judgment under challenge and remit the matters to the High Court to decide the second appeal in conformity with the provisions of Section 100 of the Civil Procedure Code.

The appeals are allowed. Since none appeared on behalf of the respondents, there shall be no order as to costs.

.....L.....I.....T.....T..T....T.....T.....T.....J
.SP1

.....J.
(V.N. KHARE)

.....J.
(ASHOK BHAN)

NEW DELHI
APRIL 19, 2002.