

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5466 OF 1998

Solma .. Appellant

-vs-

Ishari Lal .. Respondent

O R D E R

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 question, the judgment under challenge deserves to be set aside. We, accordingly, set aside the judgment under challenge and send the matter back to the High Court for deciding the second appeal in conformity with the provisions of Section 100 CPC. The appeal is allowed. There shall be no order as to costs.

& & & & & & & ..J.
(V. N. Khare)

& & & & & & & ..J.
(B. N. Agrawal)

New Delhi;
30 August, 2001