

₪

C.A.No. 5524 OF 1998

ITEM No.105

Court No. 9

SECTION XVII

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. 5524 of 1998

RAJENDER PD. YADAV Appellant (s)

VERSUS

CHHOHARA DEVI & ORS.Respondent (s)

Date : 10/02/2004 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Appellant (s)Mr. P.S. Mishra,Sr.Adv.
Mr. Rakesh K. Khanna,Adv.
Mr. T. Harshvardhan,Adv.
Mr. Rajesh Prasad Singh,Adv.

For Respondent (s)Mr. M.P. Verma,Sr.Adv.
Mr. M.D. Pandeya,Adv.
Ms. Punam Sinha,Adv.
Mr. Prem Sunder Jha,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] [Kanwal Singh]
Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5524 OF 1998

Rajender Pd. Yadav ...Appellant(s)

Versus

Chhohara Devi & Ors.

...Respondent(s)

O R D E R

A perusal of the impugned judgement shows that the second appeal has been disposed of by reversing the concurrent findings of fact without formulating any substantial question(s) of law, if any, that arose for consideration between the parties, as mandatorily required under Section 100 of the Code of Civil Procedure, 1908 [for brevity, 'the Code']. It also does not appear from the impugned judgement that any such substantial question(s) of law was considered. This Court has consistently and repeatedly held that it is essential to formulate substantial question(s) of law, if any, arise for consideration between the parties to be examined under Section 100 of the Code. Since the impugned judgement suffers from the infirmity, without expressing one way or the other on the merits of the respective contentions of the parties, we set aside the impugned judgement and remit the second appeal to the High Court to formulate substantial question or question(s) of law, if any, arise for consideration and then to dispose of the second appeal.

...2/-

- 2 -

At this stage, it is brought to our notice that the litigation is pending between the parties for more than three decades. This being the position, we expect that the High Court will dispose of the second appeal as expeditiously as possible, in view of what is stated above.

The civil appeal is, accordingly, allowed.

No costs.

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

.....J.
[DR. AR. LAKSHMANAN]

New Delhi,
February 10, 2004.