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C.A.No. 9842 OF 1995  
.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp  
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ITEM NO.101 COURT NO. 3 SECTION XIV

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO.9842 OF 1995@@  
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Gian Singh ... Appellant (s)

Vs.

Punjab Singh & Ors. ... Respondent (s)

( With Office Report )

Date: 30/10/2002 This/These matter(s) was/were called  
on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE  
HON'BLE MR. JUSTICE ARUN KUMAR

For appellant (s) Mr. Rakesh K. Sharma,Adv.  
Mr. Chander Shekhar Ashri,adv.

For respondent (s) Mr. Lekh Raj Rehalia,Adv.  
1 & 2 Mr. Kuldip Singh,Adv.

Mr. K.R. Nagaraja,Adv.

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

.....L.....I.....T.....T.....T.....T.....T.....T.....J.  
.SP2

The appeal is allowed. There shall be no order  
as to costs.

.SP1 (Neelam Kawatra) (S. Krishnan)  
Court Master Court Master

Signed order is placed on the file.

.PL55  
.....T.....T.....T.....T.....T.....T.....T.....T.....T.....T.....J.

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.9842 OF 1995@@  
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Gian Singh

Appellant (s)

versus

Punjab Singh & Ors.

Respondent (s)

O R D E R@@  
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.....L.....I.....T.....T.....T.....T.....T.....T.....J.  
.SP2

This is plaintiff's appeal.

The plaintiff herein brought a suit for permanent injunction. The said suit was decreed. The defendant's appeal against the judgment of the trial Court was dismissed by the first appellate Court. However, the High Court allowed the second appeal and consequently, the suit stood dismissed. It is against the said judgment, the plaintiff has preferred this appeal.

This Court, on number of occasions, has repeatedly said that the High Court under Section 100 C.P.C. is first required to frame substantial question of law before deciding the second appeal. Unless substantial question of law is framed, the High Court does not acquire jurisdiction to decide the appeal on merits. In this case what we find is

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that the High Court without framing any substantial question of law proceeded to decide the appeal. This was not the way to decide the second appeal. On this short ground, 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 to decide the second appeal in terms of Section 100 C.P.C.

The appeal is allowed. There shall be no order as to costs.

.SP1

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

New Delhi,  
October 30, 2002.

.....J  
(Arun Kumar)