

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

C I V I L A P P E A L N O (s) . 2 9 0 1 O F 2 0 0 2

ARUN CHAN D R A DAS MAZUMDA R

Appellant (s)

VE R S U S

AB DU L NOOR BA R B H U I Y A (D E A D) B Y LR S . & ORS.
)

Respondent(s)

Date: 2 6 / 0 2 / 2 0 0 8 This Appeal was called on for hearing today.

C O R A M :

HON' B L E MR. JUS T I C E H. K. S E M A
HON' B L E MR. JUS T I C E M A R K A N D E Y K A T J U

For Appellant(s)

Mr. N.R. Choudhury, Adv.
Mr. Somnath Mukherjee, Adv.

For Respondent(s)

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

The appeal is allowed in terms of the signed order.

(P A W A N K U M A R)
C O U R T M A S T E R

(A N A N D S I N G H)
C O U R T M A S T E R

(signed order is placed on the file)
I N T H E S U P R E M E C O U R T O F I N D I A

C I V I L A P P E L L A T E J U R I S D I C T I O N

C I V I L A P P E A L N O . 2 9 0 1 O F 2 0 0 2

ARUN CHAN D R A DAS MAZUMDA R
A P P E L L A N T

...

VE R S U S

AB DU L NOOR BA R B H U I Y A (D E A D) B Y LR S . & ORS.
R E S P O N D E N T S

...

O R D E R

This appeal is preferred by the defendant. Despite receipt of
notice plaintiff- respondent did not appear.

The sole contention in this appeal is that the High Court in
Second Appeal interfered with the finding of fact recorded by the First
Appellate Court without framing a proper substantial question of law.

In paragraph 6 of the High Court order although it
purported to have referred to some substantial questions of law, what
are those substantial questions of law which have been framed are not

disclosed. Instead, the High Court proceeded with the disposal of the appeal without any framing substantial question of law. Only for this reason the order of the High Court is set aside. The matter is remitted to the High Court to hear the Second Appeal afresh after framing substantial question of law as contemplated under Section 100 C.P.C.

If there is no substantial question of law
:2 :

involved the High Court may pass appropriate orders as it may deem fit and proper. Second Appeal is restored to the file of the High Court to dispose of in accordance with law.

The appeal is allowed accordingly. No costs.

..... J.
(H.K. S E M A)

..... J.
(M A R K A N D E Y K A T J U)

N E W D E L H I ,
F E B R U A R Y 2 6 , 2 0 0 8 .