

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(s). 2535 OF 2000

RAMACHANDRA GOUNDER (DEAD) BY L.R.

Appellant (s)

VERSUS

ANGALAMMAI AND ORS.

Respondent(s)

(With appln(s) for substitution of deceased petitioner and office report)

(with appln.(s) for condonation of delay in filing application for substitution)

Date: 19/04/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. SRIKRISHNA

HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA

For Appellant(s)

Mr. R. Sundervardhan, Sr. Adv.

Mr. R.N. Keshwani, Adv.

Mr. Ram Lal Roy, Adv.

For Respondent(s) Mr. K.K. Mani, Adv.

Mr. K.B. Sandeep, Adv.

UPON hearing counsel the Court made the following

O R D E R

Delay condoned in filing substitution application.

Substitution allowed.

The Appeal is allowed in terms of the signed order.
No order as to

costs.

dha R. Bhatia)

(K.K. Chawla)

(Ra

Court Master

Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2535 OF 2000

RAMACHANDRA GOUNDER (DEAD) BY L.R. .. APPELLANT(S)

VERSUS

ANGALAMMAI AND ORS.

.. RESPONDENT(S)

O R D E R

Delay condoned in filing substitution application.

Substitution allowed.

The learned counsel for the Appellant is permitted to amend the cause title pursuant to this order.

This Appeal is against the Judgment of the Single Judge of the Madras High Court in Second Appeal No.1735 of 1985.

With the help of the learned counsel on both sides, we have

perused the impugned Judgment and we find that that the same is not in conformity with the requirement of Section 100 of the Code of Civil Procedure. Section 100 of the Code of Civil Procedure provides that if the High Court is satisfied that a substantial question of law is involved in the case, it shall formulate the substantial question of law involved in the Appeal before admission after which alone the Appeal is to be heard. Though, it is open to the Court to hear the Appeal also on any other substantial question of law, but it must formulate them in order to enable the parties to know the substantial questions of law being considered by the High Court. We find that none of the requirements has been met by the High Court. We are informed by the learned counsel that all this exercise was done by the High Court at the time of the admission. But from a perusal of the impugned Judgment, we find that no such substantial question of law was formulated or framed. It would be preferable that a Judgment in Second Appeal should start with the substantial question of law formulated by the High Court for its consideration and then deal with the merits of the matter.

In the circumstances, we set aside the impugned Judgment and remit the Second appeal No.1735 of 1985 to the High Court for fresh hearing and disposal in accordance with the provisions of Section 100 of the Code of Civil Procedure as interpreted by this Court in a number of Judgments.

It shall be open to the parties on both sides to make submissions to

enable the High Court to formulate the substantial questions of law, if any.

The High Court shall consider the Second Appeal after formulation thereof.

The Appeal is, accordingly, allowed. No order as to costs.

.....J.

(B.N. Srikrishna)

.....J.

(Lokeshwar Singh Panta)

New Delhi;

April 19, 2006.