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C.A.No. 6447 OF 1998  
.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp  
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ITEM NO.113 COURT No.6 SECTION IVA

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

Civil Appeal No.6447/1998@@  
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C.R. Gurusiddappa Appellant (s)

VERSUS

H.R. Siddappa & Anr. Respondent (s)

Date : 02/08/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE  
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Appellant (s) Mr. S.K. Kulkarni,Adv. for  
Ms. Sangeeta Kumar,Adv.

For Respondent (s) Mrs. Lalita Kaushik,Adv.(NP)

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

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.SP2

The civil 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.

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.PL55

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO.6447 OF 1998@@  
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C.R. Gurusiddappa

Appellant (s)

versus

H.R. Siddappa & Anr.

Respondent (s)

O R D E R@@  
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It is defendant's appeal. The plaintiff-respondents brought a suit for specific performance of an agreement to sell. The said suit was decreed. The defendant-appellant preferred an appeal before the appellate Court. The first appellate Court allowed the appeal and reversed the decree of the trial Court. Aggrieved, the plaintiff-respondents preferred second appeal before the High Court. The High Court allowed the second appeal and restored the decree of the trial Court. It is against the said judgment, the appellant has preferred this appeal.

We have heard learned counsel for the appellant and perused the record. This Court, on numerous occasions, have held that the High Court before deciding the second appeal is first required to formulate substantial question of law under Section 100 of the Code of Civil Procedure. It is only after formulating the question of law, the High Court

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acquires jurisdiction to decide the appeal on merits. Here what we find is that the High Court without formulating the question of law decided the second appeal filed by the respondents. On this short question, the judgment of the High Court deserves to be set aside. We, accordingly, set aside the judgment of the High Court and send the matter back to the High Court for deciding the second appeal strictly in conformity with Section 100 of the Code of Civil Procedure.

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

.SP1

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

New Delhi,  
August 02,2001.

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