

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). 55 OF 2001

DAVID PINTO

Appellant (s)

VERSUS

MONAPPA KOTTARI (D) BY LRS. & ANR.

Respondent(s)

(With office report)

Date: 19/01/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE A.K. MATHUR

For Appellant(s)

Mr. S.N. Bhat, Adv.

Mr. N.P.S. Panwar, Adv.

Mr. D.P.Chaturvedi, Adv.

Mr. S.N. Bhat, Adv.

For Respondent(s)

Mr. Altaf Ahmed, Sr. Adv.

Mr.R Jagannath Gouley, Adv.

Mr. P. Narasimhan, Adv.

Mr. P.S. Narasimha, Adv.

Mr. Rohit N Rao, Adv.

Mr. Avijeet K Lala, Adv.

for

M/S. P.S.N. & Co. ,Adv

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the parties.

The appeal is allowed, impugned judgment rendered by the High Court is set aside and the second appeal is remanded to the High court to first frame substantial question of law, if any, and thereafter, decide the second appeal on merits after giving opportunity of hearing to the parties.

No costs.

[Charanjeet Kaur] [O
m Prakash]
Court Master C
ourt Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 55 OF 2001

David Pinto .. Appellant(s)
Versus
Monappa Kottari (D) By Lrs. & Anr. .. Respondent(s)

O R D E R

Heard learned counsel for the parties.

By the impugned judgment, the High Court has allowed the second appeal, set aside judgments and decrees passed by the trial Court as well as the lower appellate Court and dismissed the plaintiff's suit. From the impugned judgment, it would be clear that no substantial question of law was framed therein. It is well-settled that in a second appeal, High Court is required to first frame substantial question of law, if any, and decide the same. The said

procedure in the present case having not been adopted, we are of the view that the impugned judgment is fit to be set aside.

Accordingly, the appeal is allowed, impugned judgment rendered by the High Court is set aside and the second appeal is

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remanded to the High Court to first frame substantial question of law, if any, and thereafter, decide the second appeal on merits after giving opportunity of hearing to the parties.

No costs.

.....J

[B.N. AGRAWAL]

.....J

[A.K. MATHUR]

NEW DELHI,

JANUARY 19, 2006.