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SLP(C)No. 22517 OF 2003

ITEM No.209

Court No. 6

SECTION XII
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Civil) No.22517/2003

(From the judgment and order dated 10/02/2003 in SA 1713/90
of The HIGH COURT OF MADRAS)

ASST. COMMNR., H.R. & C.E. & ANR.

Petitioner (s)

VERSUS

ARALVAIMOZHI SRI N.K.V.V.S.TEMPLE & ORS.

Respondent (s)

(With Appln(s). for c/delay in filing SLP and Office Report)
(For Final Disposal)

Date : 23/07/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Petitioner (s)

Mr. Subramonium Prasad.,Adv.

For Respondent (s)

Mr. Rakesh K. Sharma,Adv.

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

Leave granted.

The appeal is allowed with no costs in terms of the signed order.

Sarita
Court Master

(Shelly Sengupta)

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4396 OF 2004
(Arising out of SLP(C)No.22517/2003)

ASST. COMMNR., H.R.& C.E. & ANR.

... APPELLANTS

VERSUS

O R D E R

Leave granted.

On 24.11.2003, a notice was issued indicating that the case may be disposed of at the SLP stage itself by setting aside the impugned order and remitting the case to the High Court to consider whether any substantial question or questions of law arose for consideration in the second appeal.

Learned counsel for the parties did not dispute before us that the second appeal was disposed of by the High Court without formulating or considering whether any substantial question or questions of law arose between the parties as per Section 100 of the Civil Procedure Code.

This Court has repeatedly held that in the second appeal, substantial question or questions of law ought to be

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formulated, if arose between the parties and the second appeal must be disposed of accordingly. In this view, without expressing one way or the other on the merits of the respective contentions, we allow the appeal, set aside the impugned order and remit the second appeal to the High Court to be disposed of in the light of what is stated above, i.e., the High Court to formulate substantial question or questions of law, if arising for consideration between the parties, as required under Section 100 of the Civil Procedure Code and then dispose of the second appeal.

No costs.

[SHIVARAJ V. PATIL]J.

New Delhi, [B.N. SRIKRISHNA]J.
July 23, 2004.