

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 134 OF 2009

T.DHANPAL & ORS. ... APPELLANT(S)

Versus

DHANAPAL & ANR. ... RESPONDENT(S)

O R D E R

1. Despite service of notice, none appears on behalf of the respondents. Accordingly, the matter has been heard *ex parte*.

2. We have heard Ms. V. Mohana, learned senior counsel appearing for the appellants.

3. The short point canvassed by Ms. V. Mohana is that the High Court, while exercising jurisdiction under Section 100 of the Code of Civil Procedure, 1908, proceeded to allow the

second appeal without framing any substantial question of law, which is a mandatory requirement under the said provision. It is submitted that the High Court has set aside the two concurrent findings/judgment(s) of the Trial Court and the First Appellate Court and dismissed the suit filed by the appellants-plaintiffs.

4. There are a series of judgments on the above issue that the High Court while entertaining a second appeal must formulate the substantial question(s) of law and the appeal has to be heard and decided strictly within the ambit of on the question(s) so framed. In any case, such question(s) must be framed at the time of admission or before commencement of the final hearing, so as to afford adequate opportunity to the parties to address the Court on those issues.

5. In the present case, we find that no substantial question of law was framed by the High Court and which has proceeded to allow the appeal by re-appreciating the evidence. It is

relevant to mention here that paragraph 9 of the impugned judgment simply states that the point for determination in this appeal is whether the plaintiffs are entitled to the relief as prayed for in the suit.

6. In our considered opinion, such an approach could not have been adopted by the High Court in considering the second appeal on merits.

7. Accordingly we set aside the impugned judgment passed by the High Court. The Second Appeal No. 1258 of 2002 is restored to the file of the High Court. The matter is remitted to the High Court for a fresh decision on merits after following the due procedure prescribed under the law and as observed above.

8. Having regard to the fact that the second appeal is of the year 2002, the High Court may consider disposing of the same expeditiously.

9. It goes without saying that the parties shall extend full cooperation in early disposal of the appeal.

10. The appeal stands disposed of accordingly.

11. Pending application(s), if any, shall stand disposed of.

.....J
(VIKRAM NATH)

.....J
(SANDEEP MEHTA)

.....J
(VIJAY BISHNOI)

NEW DELHI;
APRIL 23, 2026.

ITEM NO.117

COURT NO.2

SECTION XII-B

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(s). 134/2009

T.DHANPAL & ORS.

Appellant(s)

VERSUS

DHANAPAL & ANR.

Respondent(s)

Date : 23-04-2026 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE VIKRAM NATH
HON'BLE MR. JUSTICE SANDEEP MEHTA
HON'BLE MR. JUSTICE VIJAY BISHNOI

For Appellant(s) :

Mrs. V. Mohna, Sr. Adv.
Mr. Anup Kumar, AOR

For Respondent(s) :

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

The appeal stands disposed of in terms of the
signed order.

Pending application(s), if any, shall stand
disposed of.

(SONIA BHASIN)
ASSISTANT REGISTRAR-CUM-PS

(RANJANA SHAILEY)
ASSISTANT REGISTRAR

[Signed order is placed on the file]