

SUPREME COURT OF INDIA

M.G. Hegde

Vs.

Vasudev D. Hegde

(S Bharucha and S S Quadri JJ.)

18.11.1999

ORDER

1. Leave granted.
2. The learned Single Judge in regular second appeals has gone into the evidence and come to a conclusion thereon contrary to that of the Court below holding that its judgment and decree was "prima facie perverse and error apparent on the face of the record". This is not a "mantra" that can be employed to permit the Court to do in a second appeal what the law enjoins it not to do. We have, regretfully, had to comment in a similar fashion about judgments of a similar kind delivered by the same learned Judge. In the circumstances, it becomes necessary to set aside the judgment and order under appeal and restore the second appeals to the file of the High Court for being heard and determined afresh, keeping the boundaries of its jurisdiction in a second appeal strictly in view. This shall be done expeditiously.
3. The civil appeals are allowed. The judgment and order under appeal is set aside. The second appeals (RSAs Nos. 453 and 454 of 1995) are restored to the file of the High Court of Karnataka to be heard and disposed of afresh, in the manner stated above.
4. No order as to costs.