

SUPREME COURT OF INDIA

Shankarappa M. Mutanki

Vs.

B. M. Mutanki

C.A.No.478 of 2000

(A. S. Anand, C.J.I. and V. N. Khare, JJ.)

21.01.2000

ORDER

1. Leave granted.

2. We find that the learned single Judge upset the finding of the appellate Court and modified the decree of the trial Court in a Regular Second Appeal without framing any question of law or even indicating what substantial question of law was involved in the appeal. It appears that the learned Judge overlooked the requirement of Section 100, C.P.C., as amended. It has been repeatedly held by this Court in *K. Sathish Chandra Purkait v. Santosh Kumar Purkait* (1997) 5 SCC 438 : (1997 AIR SCW 2459 : AIR 1997 SC 2517) and *Panchugopal Barua v. Umesh Chandra Goswami* (1997) 4 SCC 713 : (1997 AIR SCW 1035 : AIR 1997 SC 1041) that while hearing a second appeal, the Court does not acquire any jurisdiction to deal with it unless the question involved is a substantial question of law and the same is formulated. Under the circumstances this appeal has to succeed and is allowed. The judgment and decree passed by the High Court in the Second Appeal is set aside and the case is remanded to the High Court for its fresh disposal in accordance with law, keeping in view the mandate of Section 100, C.P.C. There shall be no order as to costs. Let the appeal be decided expeditiously.

Order accordingly.