

SUPREME COURT OF INDIA

Balla Ram

Vs.

Phoola

C.A.No.1356 of 1993

(Shivaraj V. Patil and A. Pasayat JJ.)

27.11.2002

ORDER

1. Heard the learned counsel for the parties. The correctness and validity of the order passed in a second appeal by the High Court of Punjab and Haryana at Chandigarh is questioned in this appeal.

2. Disposing of the second appeal, the High Court passed the following order :

"Heard. No merit.

Dismissed."

3. The High Court did not consider whether any substantial question or questions of law arose for consideration between the parties as required under Section 100 of the Code of Civil Procedure. This Court has taken the consistent view that in order to consider and dispose of a second appeal, substantial question or questions of law should arise for consideration between the parties. The impugned order does not indicate whether any substantial question or questions of law arose for consideration between the parties. It is expected of the appellant to frame substantial question of law in the memorandum of appeal. Sub-section (3) of Section 100, C.P.C. states that:

"In an appeal under this section, the memorandum of appeal shall precisely state the substantial question of law involved in the appeal."

4. In this view, without stating anything more on merits, the impugned order is set aside.

5. The appeal is allowed accordingly. The matter is remitted to the High Court to consider whether any substantial question or questions of law arise for consideration and then dispose of the second appeal in accordance with law.

6. Having regard to the fact that the suit is of the year 1982, we request the High Court to dispose of the second appeal within a period of six months from the date of the receipt of the copy of this order.

Appeal allowed.