

**SUPREME COURT OF INDIA**

Roop Narain

Vs.

Murlidhur

C.A.No.4143 of 2004

(Shivaraj V. Patil and B. N. Srikrishna JJ.)

16.07.2004

**ORDER**

The Order of the Court is as follows

1. Heard the learned counsel for the petitioners.
2. Leave granted.
3. On 13th October, 2003, notice was issued stating that the matter may be remitted to the High Court by setting aside the impugned order.
4. The respondents are neither present nor represented.
5. The learned counsel for the appellants contended that the High Court committed a serious error in disposing of the second appeal on merits without considering whether any substantial question or questions of law arose for consideration between the parties, as mandatorily required under Section 100 of the Code of Civil Procedure, 1908. We find force in this submission, having perused the impugned order. The High Court has disposed of the second appeal without considering whether any substantial question or questions of law arose for consideration between the parties. Under the circumstances, without expressing one way or the other on the merits of the contentions raised, we allow this civil appeal, set aside the impugned order and remit the second appeal to the High Court for consideration and formulation of substantial question or questions of law, if any, arise for consideration between the parties and then to dispose of the second appeal.
6. No costs.