

SUPREME COURT OF INDIA

Koli Bhangabhai

Vs.

Koli Bhurabhai Vajabhai & Ors.

C.A.No.6069 of 2001

(Tarun Chatterjee and Harjit Singh Bedi, JJ.)

14.02.2008

ORDER

1. In our view, this appeal is bound to succeed on a very short question. The High Court by the impugned judgment and order dt.09.08.2000 rejected the contention of the appellant on the ground that the said contention was not raised before the courts below. In our view, the question raised by the appellant was a pure question of law which ought to have been permitted by the High Court to be raised while deciding the appeal. That being the position, we set aside the impugned order and remit the case back to the High Court for disposal in accordance with law after permitting the parties to raise the question that was raised in the appeal and thereafter decide the appeal. The appeal is allowed to the extent indicated above. There shall be no order as to costs.