

SUPREME COURT OF INDIA

A.K.Sharma

Vs.

HPGCL & Ors.

10.03. 2008

(A.K.Mathur and Aftab Alam,JJ.)

C.A.No.1880 of 2008

ORDER

1. Heard learned counsel for the parties.
2. Leave granted.
3. This appeal by special leave is directed against the judgment and order dated 25.1.2006 passed by the learned Single Judge of the High Court of Punjab & Haryana at Chandigarh in R.S.A. No. 1496/2005 whereby the learned Single Judge while admitting the Regular Second Appeal has not recorded the substantial questions of law involved in the matter.
4. As per Section 100 of Code of Civil Procedure, before the High Court admits a second appeal, it is required to formulate and record the substantial questions of law which require consideration of the Court. However, in the present case, there is no substantial question of law framed by the High Court while admitting the second appeal.
5. Learned counsel for the respondents submits that the questions of law were framed in the Memorandum of Appeal but by inadvertence the High Court has not reproduced the same in its order while admitting the second appeal for hearing.
6. Be that as it may, we set aside the impugned order dated 25.1.2007 and remit the matter to the High Court to consider whether the questions of law framed in the memorandum of appeal are the substantial questions of law or not which need to be considered by it. The High Court is also free to frame such other questions of law as it may deem fit and proper and decide the second appeal after hearing counsel for the parties.
7. The appeal is allowed, impugned order is set aside and the matter is remitted back to the High Court for hearing afresh the second appeal after formulating substantial questions of law involved in the matter. Till the time the High Court finally disposes of the second appeal, the order of stay of judgments and decrees of both the Courts below shall continue.

8. Appeal allowed. No order as to costs.