

**SUPREME COURT OF INDIA**

Shivanagowda Shankargouda Desai

Vs.

M.Channaveerappa Modi

C.A.No.2508 of 2007

(Anil R.Dave and Adarsh Kumar Goel, JJ.)

06.01.2016

**JUDGMENT**

**Anil R.Dave, J.**

1. Heard the learned counsel for the appellant.
2. Though served, nobody appears for the respondents.
3. In view of the fact that perhaps certain incorrect facts have been recorded in the impugned judgment and more particularly, the Second Appeal has been decided at the admission stage, without appearance of the appellant, we are of the view that it would be just and appropriate if the High Court reconsiders the entire Second Appeal and decides it afresh.
4. In the circumstances, the impugned judgment is set aside. The Second Appeal shall be restored to its original number. The matter is remanded to the High Court so that after hearing the parties, it can be decided afresh.
5. The High Court shall notify the afore-stated Second Appeal for hearing on 15th February, 2016, so that the appeal can be decided at an early date.
6. The civil appeal is disposed of as allowed with no order as to costs. Pending application, if any, stands disposed of.