

**IN THE SUPREME COURT OF INDIA**  
**CIVIL APPELLATE JURISDICTION**  
**CIVIL APPEAL NO.6084 OF 2002**

**Mehar Singh (Dead) by Lrs. and Ors.                      ...Appellant(s)**

**Versus**

**Sawan Singh (D) By Lrs. and Ors.                      ...Respondent(s)**

**O R D E R**

This is an appeal for setting aside the judgment dated 18.9.2001 of the High Court of Punjab and Haryana, whereby Regular Second Appeal No. 1053 of 1981 filed by the respondents was allowed, decrees of the courts below were set aside and the suit for declaration filed by the appellants was dismissed.

The Trial Court decreed the suit filed by the appellants and declared that order dated 17.9.1975 passed by the Collector for redemption of the mortgage was nullity. The lower appellate court dismissed the appeal of the respondents and confirmed the decree passed by the trial court. When the matter was taken in second appeal, the learned Single Judge, without framing any question of law, reversed the decrees of the trial and lower appellate courts and dismissed the suit.

In our view, the High Court could not have allowed the second appeal without framing substantial question of law as per the mandate of Section 100 of the Code of Civil Procedure and on this ground alone, the judgment under appeal is liable to set aside.

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Accordingly, the appeal is allowed, impugned judgment is set aside and the second appeal is remitted to the High Court, which shall first consider whether any substantial question of law arises in the appeal. If the High Court comes to the conclusion that any substantial question of law arises in the second appeal, then it shall frame such question and then decide the appeal in accordance with law after giving opportunity of hearing to the parties.

[B.N. AGRAWAL]

.....J.

[G.S. SINGHVI]

.....J.

[DR. MUKUNDAKAM SHARMA]

.....J.

New Delhi,  
April 16, 2009.

