

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5065 OF 2009

[Arising out of SLP(C) No. 2626/2007]

PENDYALA SATYANARAYANA

... APPELLANT(S)

:VERSUS:

KOTHA CHINA VEERABHADRARAO

... RESPONDENT(S)

ORDER

Leave granted.

One of the questions which was raised before the High Court by way of a substantial question of law in a second appeal by the appellant was as to whether the expert evidence should have not been taken into consideration by the First Appellate Court, only in terms of a judgment of the Andhra Pradesh High Court in Renu Devi Kedia v. Seetha Devi, 2004 (6) A.L.T. 429. The question, in our opinion, should have been considered by the High Court keeping in view the provisions of Section 45 of the Indian Evidence Act in the light of several decisions rendered thereupon.

In view of the fact that the expert's testimony before the Court should not be shaken despite lengthy cross-examination, we are of the opinion that the High Court ought not to have dismissed the second appeal in limine. We, therefore, set aside the judgment of the High Court and remit the matter back to it for consideration afresh after framing appropriate question of law.

The appeal is disposed of with the aforementioned direction.

.....J
(S.B. SINHA)

.....J
(DEEPAK VERMA)

NEW DELHI,
JULY 30, 2009.

