

CASE NO.:
Appeal (civil) 3269 of 2000

PETITIONER:
RAMAVILASOM GRANDHASALA AND ORS.

RESPONDENT:
N.S.S. KARAYOGAM

DATE OF JUDGMENT: 05/05/2000

BENCH:
V.N. KHARE & N. SANTOSH HEGDE

JUDGMENT:
JUDGMENT

2000 (3) SCR 1151

The following Order of the Court was delivered : Leave granted.

The plaintiff-respondent filed a suit for declaration and possession. The said suit was dismissed. An appeal against the said decree was also dismissed. Thereafter the plaintiff-respondent filed a second appeal before the High Court. The High Court without formulating any substantial question of law, as required under sub-section (4) of Section 100 of Code of Civil Procedure allowed the second appeal and decreed the suit. It is against the said judgment the defendant-appellant is in appeal. This Court on more than one occasion has held that under sub-section (4) of Section 100 of Code of Civil Procedure, the High Court is required to frame substantial question of law and only then it acquires jurisdiction to decide a Second Appeal on merits. In this case the High Court without framing any substantial question of law has allowed the appeal and this in itself is a sufficient ground to set aside the judgment under appeal. We, accordingly, set aside the judgment under appeal and send the matter back to the High Court to decide the appeal only after framing substantial question of law which may arise in the case.

The appeal is allowed. The High Court may decide the matter as expeditiously as possible. No costs.