

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.844 OF 2017

(Arising out of S.L.P. (C) No.22023 of 2015)

N. Selvaraj

Appellant(s)

Versus

C. Vairamuthu and Others

Respondent(s)

W I T H

CIVIL APPEAL NO.845 OF 2017

(Arising out of S.L.P. (C) No.31082 of 2015)

O R D E R

Leave granted.

Heard Mr. G. Sivabalamurugan, learned counsel for the appellants and Mr. C. Paramasivam, learned counsel for the respondents.

It is submitted by the learned counsel for the appellants that the High Court has delivered the judgment in second appeal without formulating substantial questions of law. Learned counsel for the respondents would contend that though no questions of law have been framed by the High Court, it has dealt with the facts of the law emerging from the appellate court judgment and, therefore, no illegality can be found in the impugned judgment.

This Court recently in Raghavendra Swamy Mutt vs. Uttaradi Mutt (2016) 11 SCC 235, after referring to earlier judgments, has held thus:-

"It is clear as day that the High Court cannot admit a second appeal without examining whether it raises any substantial question of law for admission and thereafter, it is obliged to formulate the substantial question of law. Solely because the Court has the jurisdiction to pass an ex parte order, it does not empower it not to formulate the substantial question of law for the purpose of admission, defer the date of admission and pass an order of stay or grant an interim relief. That is not the scheme of CPC after its amendment in 1976 and that is not the tenor of precedents of this Court and it has been clearly so stated in *Ram Phal*. Therefore, the High Court has rectified its mistake by vacating the order passed in IA No.1 of 2015 and it is the correct approach adopted by the High Court. Thus, the impugned order is absolutely impregnable."

In view of the aforesaid, we set aside the impugned judgment and request the High Court to frame substantial questions of law and, thereafter, dispose of appeal in accordance with law.

Resultantly, the appeals are allowed, the impugned judgment is set aside and the matter is remitted to the High Court for disposal in terms of the observation made herein-above. There shall be no order as to costs.

.....J.
(Dipak Misra)

.....J.
(R. Banumathi)

New Delhi;
January 20, 2017.

ITEM NO.2

COURT NO.2

SECTION XII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No.22023/2015

(Arising out of impugned final judgment and order dated 06/04/2015
in SA No. 716/2013 passed by the High Court of Madras at Madurai)

N. SELVARAJ

Petitioner(s)

VERSUS

C. VAIRAMUTHU AND ORS

Respondent(s)

(With interim relief and office report)

WITH S.L.P.(C) No.31082/2015

(With office report)

Date : 20/01/2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Mr. G. Sivabalamurugan, AOR
Ms. Vandana, Adv.

For Respondent(s) Mr. C. Paramasivam, Adv.
Mr. Rakesh K. Sharma, AOR

Mr. Anis Mohd. Adv.
Mr. L. K. Pandey, AOR

Urfee Haider, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are allowed in terms of the signed
order.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master

(Signed order is placed on the file)