

A G. SARASWATHI & ANR.

v.

RATHINAMMAL & ORS.

(Civil Appeal No. 2112 of 2018)

B FEBRUARY 15, 2018

**[R. K. AGRAWAL AND ABHAY MANOHAR SAPRE, JJ.]**

C *Code of Civil Procedure, 1908 – Or. XLI, r.31 – Appellants filed a suit against the respondents for specific performance of agreement – Trial Court decreed the suit – Single Judge, High Court set aside the judgment/decreed of the trial Court – Aggrieved, appellant filed Letters Patent Appeal before the Division Bench, which dismissed the appeal – Propriety of – Held: Not proper – Case remanded to the Division Bench of the High Court for deciding the LPA afresh on merits in accordance with law – The reason is that the Division Bench dismissed the appeal filed by the appellants (plaintiffs) cursorily without dealing with any of the issues arising in the case as also the arguments urged by the parties in support of their case – In the absence of any application of judicial mind to the factual and legal controversy involved in the appeal and further without even mentioning the factual narration of the case set up by the parties, the findings of the two Courts as to how they dealt with the issues arising in the case in their respective jurisdiction and without there being any discussion, appreciation, reasoning and categorical findings on the issues and why the findings of two Courts below deserve to be upheld or reversed,*

D *while dealing with the arguments of the parties in the light of legal principles applicable to the case, it is difficult to sustain such order of the Division Bench – Disposal of LPA by the Division Bench of the High Court not in conformity with the requirements of Or. XLI, r.31 CPC.*

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G *Judgments/Orders – Reasoned order – Emphasis on Courts to pass reasoned order in every case.*

**Allowing the appeal, the Court**

**HELD: 1. The need to remand the case to the High Court has occasioned for the reason that the Division Bench dismissed**

H

the appeal filed by the appellants (plaintiffs) cursorily without dealing with any of the issues arising in the case as also the arguments urged by the parties in support of their case. [Para 12] [551-F] A

2. Indeed, in the absence of any application of judicial mind to the factual and legal controversy involved in the appeal and further without even mentioning the factual narration of the case set up by the parties, the findings of the two Courts as to how they dealt with the issues arising in the case in their respective jurisdiction and without there being any discussion, appreciation, reasoning and categorical findings on the issues and why the findings of two Courts below deserve to be upheld or reversed, while dealing with the arguments of the parties in the light of legal principles applicable to the case, it is difficult for this Court to sustain such order of the Division Bench. The disposal of the LPA by the Division Bench of the High Court cannot be said to be in conformity with the requirements of Order 41 Rule 31 of the Code of Civil Procedure, 1908. [Para 13] [551-G-H; 552-A] B C D

3. Time and again, Supreme Court has emphasized on the Courts the need to pass reasoned order in every case which must contain the narration of the bare facts of the case of the parties to the lis, the issues arising the case, the submissions urged by the parties, the legal principles applicable to the issues involved and the reasons in support of the findings on all the issues in support of its conclusion. It is really unfortunate that the Division Bench failed to keep in mind this principle while disposing of the appeal and passed a cryptic and unreasoned order. Such order undoubtedly caused prejudice to the parties because it deprived them to know the reasons as to why one party has won and other has lost. [Para 14] [552-B-D] E F

4. The case remanded to the Division Bench of the High Court for deciding the appeal afresh on merits in accordance with law. [Para 15] [552-D-E] G

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2112 of 2018

From the Judgment and Order dated 21.04.2004 of the High Court of Judicature at Madras in L. P. A. No. 32 of 2000. H

A P. V. Yogeswaran, Ashish Kr. Upadhyay, Bhuvan Jayant, Advs.  
for the Appellants.

Ms. Jyoti Parasher, N. J. Ramchander, Mrs. Revathy Raghavan,  
Advs. for the Respondents.

B The Judgment of the Court was delivered by

**ABHAY MANOHAR SAPRE, J.** 1. Leave granted.

C 2. This appeal arises from the final judgment and order dated  
21.04.2004 passed by the High Court of Judicature at Madras in L.P.A.  
No.32 of 2000 whereby the Division Bench of the High Court dismissed  
the appeal and affirmed the judgment and decree dated 30.10.1998 passed  
by the Single Judge of the High Court in A.S. No.630 of 1984.

3. The facts of the case lie in a narrow compass and it would be  
clear from the facts stated hereinbelow.

D 4. The appellants are the plaintiffs whereas the respondents are  
the defendants in the civil suit out of which this appeal arises.

E 5. The appellants filed a civil suit against the respondents for  
specific performance of the agreement. The respondents filed their written  
statement and denied the material averments of the appellants' claim set  
up in the plaint. The Trial Court on the basis of pleadings framed the  
issues. Parties adduced their evidence. By Judgment/decree dated  
03.07.1984, the Trial Court decreed the appellants' suit.

F 6. The respondents felt aggrieved and filed appeal before the  
Single Bench of the High Court. By judgment/decree dated 30.10.1998,  
the Single Judge allowed the respondents' appeal and while setting aside  
of the judgment/decree of the Trial Court dismissed the appellants' suit.

7. The appellant felt aggrieved and filed Letters Patent Appeal  
before the Division Bench. By impugned order, the Division Bench  
dismissed the appeal giving rise to filing of this appeal before this Court  
by way of special leave.

G 8. The short question, which arises for consideration in this appeal,  
is whether the Division Bench of the High Court was justified in dismissing  
the appellants' Letters Patent Appeal.

9. Heard Mr. P.V. Yogeswaran, learned counsel for the appellants  
and Ms. Jyoti Parasher, learned counsel for the respondents.

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10. Having heard the learned counsel for the parties and on perusal of the record of the case, we are constrained to allow the appeal, set aside the impugned order and remand the case to the Division Bench of the High Court for deciding the LPA afresh on merits in accordance with law. A

11. The impugned order reads as under: B

**“This L.P.A. coming on for hearing on Thursday the fifteen day April, 2004 upon perusing the grounds of Appeal, the order of the Honourable Mr. Justice P. Thangavel dated 30.10.98 and made in the exercise of the Special Appellate Jurisdiction of the High Court in A.S. No. 630 of 1984 and all other papers material to this case, and upon hearing the arguments of Mr. T.M. Hariharan, Advocate for the Appellants and Mr. K. Rakhunathan, Advocate for Ist respondent and steps not having been taken up to serve the notice to the Respondents 3 to 5 and having stood over for consideration till this day, this Court doth order and decree as follows: C**

**(i) That the judgment and Decree dated 30.10.98 and made in the exercise of the Appellate Jurisdiction of the Hon’ble High Court in A.S. No.630/1984 be and hereby are confirmed; and the letters patent appeal is dismissed; and D**

**(ii) That there be no costs in this L.P.A.” E**

12. The need to remand the case to the High Court has occasioned for the reason that the Division Bench dismissed the appeal filed by the appellants (plaintiffs) cursorily without dealing with any of the issues arising in the case as also the arguments urged by the parties in support of their case. F

13. Indeed, in the absence of any application of judicial mind to the factual and legal controversy involved in the appeal and further without even mentioning the factual narration of the case set up by the parties, the findings of the two Courts as to how they dealt with the issues arising in the case in their respective jurisdiction and without there being any discussion, appreciation, reasoning and categorical findings on the issues and why the findings of two Courts below deserve to be upheld or reversed, while dealing with the arguments of the parties in the light of legal principles applicable to the case, it is difficult for this Court to sustain H

A such order of the Division Bench. In our opinion, the disposal of the LPA by the Division Bench of the High Court cannot be said to be in conformity with the requirements of Order 41 Rule 31 of the Code of Civil Procedure, 1908(hereinafter referred to as “the Code”).

14. Time and again, this Court has emphasized on the Courts the need to pass reasoned order in every case which must contain the narration of the bare facts of the case of the parties to the lis, the issues arising the case, the submissions urged by the parties, the legal principles applicable to the issues involved and the reasons in support of the findings on all the issues in support of its conclusion. It is really unfortunate that the Division Bench failed to keep in mind this principle while disposing of the appeal and passed a cryptic and unreasoned order. Such order undoubtedly caused prejudice to the parties because it deprived them to know the reasons as to why one party has won and other has lost. We can never countenance the manner in which such order was passed by the High Court which has compelled us to remand the matter to the High Court for deciding the appeal afresh on merits.

15. In the light of the foregoing discussion, we allow the appeal, set aside the impugned order and remand the case to the Division Bench of the High Court for deciding the appeal afresh on merits in accordance with law keeping in view our observations made supra.

16. We, however, make it clear that we have refrained from making any observation on merits of the controversy having formed an opinion to remand the case to the High Court for the reasons mentioned above. The High Court would, therefore, decide the appeal, uninfluenced by any of our observations, strictly in accordance with law. Since the appeal is quite old, we request the High Court to ensure expeditious disposal of the appeal.

17. The appeal is accordingly allowed. Impugned order is set aside with the aforesaid directions.