

Civil Procedure Code, 1908 (V of 1908) Order XLI Rule 31, S. 96 - First Appeal - High Court has neither re- appreciated the entire evidence on record nor has given any specific findings on the issues which were even raised before the learned Trial Court - High Court has failed to exercise the jurisdiction vested in it as a First Appellate Court; the High Court has not at all re-appreciated the entire evidence on record; and not even considered the reasoning given by the learned Trial Court, in particular, on findings recorded by the learned Trial Court on the issue of willingness - Therefore, as such, the impugned judgment and order passed by the High Court is unsustainable.

Held, There is a total non-compliance of the Order XLI Rule 31 of [CPC](#). While disposing of the appeal, the High Court has not raised the points for determination as required under Order XLI Rule 31 CPC. High Court being the First Appellate court has not discussed the entire matter and the issues in detail and as such it does not reveal that the High Court has re-appreciated the evidence while disposing of the first appeal. High Court has disposed of the appeal preferred under Order XLI CPC read with Section 96 in a most casual and perfunctory manner. High Court has not framed the points for determination as required under Order XLI Rule 31 CPC, it appears that even the High Court has not exercised the powers vested in it as a First Appellate Court.

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