

2025 LiveLaw (SC) 458

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
J.B. PARDIWALA; J., R. MAHADEVAN; J.
16TH APRIL, 2025

CIVIL APPEAL NO.5213/2025 (@Petition for Special Leave to Appeal (C) No.2511/2018)
NAFEES AHMAD & ANR. versus SOINUDDIN & ORS.

Code of Civil Procedure, 1908; Order 41 Rule 31 - Held, Appellate Court not bound to frame points of determination when not raised in appeal. Appellate Court's failure to frame points of determination does not invalidate judgment if substantially compliant with rule and appellant raises no specific issues for reconsideration - High Court erred in setting aside Appellate Court's decision for non-compliance with Rule 31 when no points were urged by appellant - Rule 31 requirements apply only when specific points are raised - Substantial compliance suffices, and technical interpretation should not compromise substantial justice - Appeal allowed. [Followed: *Thakur Sukhpal Singh v. Thakur Kalyan Singh*, (1963) 2 SCR 73; Paras 7, 10, 12 & 14]

[Arising out of impugned final judgment and order dated 04-09-2017 in SA No. 69/2008 passed by the High Court of Judicature at Allahabad, Lucknow Bench]

For Petitioner(s): Ms. Pyoli, AOR Ms. Saumya Dwivedi, Adv.

For Respondent(s): Mr. M.C. Dhingra, Sr. Adv. Mr. Gaurav Dhingra, AOR Mr. Shashank Singh, Adv. Mr. Surendra Gautam, Adv. Mr. Lalit Naagar, Adv.

ORDER

1. Leave granted.

2. This appeal arises from the judgment and order passed by the High Court of Judicature at Allahabad, Lucknow Bench dated 4-9-2017 in Second Appeal No.69/2008, by which the Second Appeal filed by the respondents – herein came to be partly allowed and the matter was remitted to the First Appellate Court on the ground that the First Appellate Court failed to comply with the provisions of Order 41 Rule 31 of the Code of Civil Procedure (CPC).

3. The High Court, while deciding the Second Appeal, formulated the following substantial question of law: -

“Whether it is incumbent upon the Appellate Court to frame the point of determination as per the provisions of Order 41 Rule 31 CPC while deciding the first appeal or not?”

4. Order 41 Rule 31 CPC reads thus:

“Rule 31. Contents, date and signature of judgment.— The judgment of the Appellate Court shall be in writing and shall state —

(a) the points for determination;

(b) the decision thereon;

(c) the reasons for the decision; and

(d) where the decree appealed from is reversed or varied, the relief to which the appellant is entitled,

and shall at the time that it is pronounced be signed and dated by the Judge or by the Judges concurring therein.”

5. It appears that the High Court relying upon few decisions took the view that Order 41 Rule 31 CPC is mandatory and the failure on the part of the Appellate Court to frame the points for determination as per the provisions of Order 41 Rule 31 CPC would vitiate the entire judgment and make it wholly void.

6. Having heard the learned counsel appearing for the parties and having gone through the materials on record, we are in complete disagreement with the view taken by the High Court.

7. We propose to follow the dictum as laid by this Court in the case of "G. Amalorpavam And Others v. R.C. Diocese of Madurai And Others" reported in (2006) 3 SCC 224, wherein this Court observed that whether in a particular case, there has been substantial compliance, with the provisions of Order 41 Rule 31 CPC should be determined on the nature of the judgment delivered in each case. Non-compliance with the provisions, by itself, may not vitiate the judgment and make it wholly void and may be ignored if there has been a substantial compliance with it.

8. We may elaborate the issue a little further from a different angle.

9. The Privy Council observed in "Mt. Fakrunisa v. Moulvi Izarus" reported in AIR 1921 PC 55, at p. 56, as under:

"In every appeal it is incumbent upon the appellants to show reason why the judgment appealed from should be disturbed; there must be some balance in their favour when all the circumstances are considered, to justify the alteration of the judgment that stands. Their Lordships are unable to find that this duty has been discharged."

10. The Privy Council decision referred to above was looked into by a three-Judge Bench in the case of "Thakur Sukhpal Singh v. Thakur Kalyan Singh and Anr." reported in (1963) 2 SCR 733, wherein this Court observed as under:

"With respect, we agree with this and hold that it is the duty of the appellant to show that the judgment under appeal is erroneous for certain reasons and it is only after the appellant has shown this that the appellate court would call upon the respondent to reply to the contention. It is only then that the judgment of the appellate court can fully contain all the various matters mentioned in Ruel 31, Order 41."

11. This Court observed in "Sangram Singh v. Election Tribunal, Kotah, Bhurey Lal Baya" reported in (1955) 2 SCR 1, at page 8:

"Now a code of procedure must be regarded as such. It is procedure, something designed to facilitate justice and further its ends: ... Too technical construction of sections that leaves no room for reasonable elasticity of interpretation should therefore be guarded against (provided always that justice is done to both sides) lest the very means designed for the furtherance of justice be used to frustrate it."

12. The provisions of Rule 31 should therefore be reasonably construed and should be held to require the various particulars to be mentioned in the judgment only when the appellant has actually raised certain points for determination by the Appellate Court, and not when no such points are raised.

13. We must also look into the provisions of Rule 30 of Order 41 for the purpose of fortifying our interpretation of Rule 31. Order 41 Rule 30 CPC reads thus:

"30. Judgment when and where pronounced.— (1) The Appellate Court, after hearing the parties or their pleaders and referring to any part of the proceedings, whether on appeal or in the court from whose decree the appeal is preferred, to which reference may be considered necessary, shall pronounce judgment in open Court, either at once or on some future day of which notice shall be given to the parties or their pleaders."

(2) Where a written judgment is to be pronounced, it shall be sufficient if the points for determination, the decision thereon and the final order passed in the appeal are read out and it shall not be necessary for the Court to read out the whole judgment, but a copy of the whole judgment shall be made available for the perusal of the parties or their pleaders immediately after the judgment is pronounced.”

14. Thus, this Rule does not make it incumbent on the Appellate Court to refer to any part of the proceedings in the court from whose decree the appeal is preferred. The Appellate Court can refer, after hearing the parties and their pleaders, to any part of these proceedings to which reference be considered necessary. It is in the discretion of the Appellate Court to refer to the proceedings. It is competent to pronounce judgment after hearing what the parties or their pleaders submit to it for consideration. It follows therefore that if the appellant submits nothing for its consideration, the Appellate Court can decide the appeal without any reference to any proceedings of the courts below and, in doing so, it can simply say that the appellants have not urged anything which would tend to show that the judgment and decree under appeal were wrong. [See: “Thakur Sukhpal Singh” (supra)]

15. In the aforesaid view of the matter, we allow this appeal.

16. The impugned judgment and order of the High Court is set aside.

17. Pending applications, if any, also stand disposed of.

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