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C.A.No. 1757 OF 1997

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1757 OF 1997@@
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Sham Lal Suneja .. Appellant

Vs.

Penny Solomon .. Respondent

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This appeal arises out of an order made by the High Court in a R.F.A. and a connected proceeding. The High Court disposed of the matter by stating as follows:

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" We have heard the counsel. This case being one of usufructuary mortgage, rents were being recovered by the mortgagor who had to render accounts. The amounts recovered being in the special knowledge of the mortgagor, it was not possible to know when the entirety of the amount due has been recovered and decree satisfied. No time was fixed in the preliminary decree for deposit of the decretal amount.Limitation cannot be said to run against the legal representatives of the mortgagor till they had been notified about satisfaction of the decretal amount.

We are not inclined to interfere in this matter. Dismissed."

.SP2
.....L.....I.....J

The order passed by the High Court is far too cryptic and summarily disposed of the matter at the stage of admission when several questions raised to be considered by the Trial Court needed an examination by the High Court. Therefore, we think it was not a satisfactory way of disposing of the matter and the order of the High Court, insofar as R.F.A.(O.S.) 22/96 is

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concerned, is set aside and the matter shall stand remitted to the High Court for fresh consideration in accordance with law. Considering the nature of the matter, it would be appropriate for the High Court to dispose of the matter as expeditiously as possible but not later than six months from today. The appeal is allowed accordingly.

.SP1
.....J@@

