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SLP(C)No. 4891 OF 2002
ITEM No.201

Court No. 1

SECTION XV
A/N MATTER

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 (Civil) No.4891/2002

(From the judgement and order dated 24/09/2001 in SBCRP 294/01
of The HIGH COURT OF RAJASTHAN BENCH AT JAIPUR)

LAXMAN SINGH & ANR.

Petitioner (s)

VERSUS

KAN SINGH & ORS.

Respondent (s)

(With Appln(s). for exemption from filing O.T.) (With prayer for interim relief
and office report)(For Final Disposal)

Date : 11/02/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE G.P. MATHUR

For Petitioner (s)Mr. D.A. Dave, Sr. adv.
Ms. Kamini Jaiswal,Adv.

Ms. Shomila Bakshi, Adv.

For Respondent (s)

Ms. Shobha, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order.

No order as to the costs.

(Ajay Kr. Jain)

(Radha R. Bhatia)

Court Master

Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2005
(Arising out of SLP(C) No. 4891 of 2002)

Laxman Singh & Anr.

....

Appellants

Versus

Kan Singh & Ors.

....

Respondents

O R D E R

Leave granted.

Having heard the learned counsel for the parties, we are satisfied that the impugned judgment

of the High Court cannot be sustained and a re-hearing and a decision afresh is pre-eminently warranted.

What was put in issue before the High Court was the judgment and decree of the civil court passed under Section 6 of the Specific Relief Act, 1963. A major part of the order of the High Court deals with the question of court fees. Only a para at the fag end of the order has been devoted to dealing with the challenge directed against the merits of the judgment and decree of the trial court. We do not think that any of the pleas has been satisfactorily disposed of by the High Court. The learned counsel for the parties before us advanced very many pleas with which we do not propose to deal with for the first time, here, at this stage; the pleas ought to receive the consideration of the High Court.

The appeal is allowed. The impugned order of the High Court is set aside and the case is remanded to the High Court for hearing and decision afresh and in accordance with law.

We request the High Court to take up the matter for hearing as expeditiously as it can. In the meantime, i.e. during the pendency of the revision before the High Court, the parties shall maintain status quo as to the possession over the suit property, as obtaining today, and shall not create any third party interest therein.

No order as to the costs.
.....CJI.
(R.C. LAHOTI)

.....J.
(G.P. MATHUR)

New Delhi
February 11, 2005