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SLP(C)No. 15318 OF 2002
ITEM No.48

Court No.7

SECTION XIV
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.15318/2002

(From the judgement and order dated 09/10/2001 in LPA 4/01
of The HIGH COURT OF H.P AT SHIMLA)

PATEL'S WIDECOM (INDIA) LTD. & ANR.

Petitioner (s)

VERSUS

M/S. ENGINEERING INNOVATIONS LTD.

Respondent (s)

(With prayer for interim relief)

(With Appln(s). for c/delay in filing SLP & c/delay in refiling SLP
and exemption from filing official translated copy of Annexure R1/2)

Date : 03/03/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DORAISWAMY RAJU
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Petitioner (s) Mr. Pramod Swarup,Adv.
Mr. Praveen Swarup,Adv.
Ms. Pareena Swarup,Adv.
Mr. Bharat Ram,Adv.

For Respondent (s) Mr. M.K. Dua,Adv.

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

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

Leave granted.

The appeal is finally disposed of in terms of the
signed order.

.SP1

(Neena Verma)
Court Master

(K.K. Chadha)
Court Master

Signed order is placed on the file.

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.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp
L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....R
.PL62

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1932 OF 2003@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC
(@ Special Leave Petition (C) No.15318 of 2002)

Patel's Widecom (India) Limited & Anr. Appellants

Versus

M/s. Engineering Innovations Limited Respondents

O R D E R@@
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.....L.....I.....T.....T.....T.....T.....T.....T.....J
.SP2

Delay condoned.
Leave granted.

The notice in S.L.P. has been ordered on 31.07.2002 with a stipulation to deposit Rs.10,000/- to meet the expenses relating to the costs of the respondent in this Court. It is stated that the said amount has been deposited. As indicated in the said order itself, the respondent shall be at liberty to withdraw the same.

Heard the learned counsel on either side.

The respondent, on his appearance, has filed a counter affidavit opposing the claim. At the time of hearing, it was strenuously contended by learned counsel for the respondent that seven adjournments have been granted and inspite of it, the petitioners were at lapse in not filing ...2/-

: 2 :

the written statement and, therefore, no further indulgence need be shown to them at this stage of the proceedings.

We have carefully considered the submissions of the learned counsel appearing on either side. Since the main grievance of the petitioner is that due to some lapses on the part of learned counsel who was representing them in the Trial Court, such a situation arose. We are of the view that despite some lapse on their part, an opportunity to defend effectively the suit should not be denied to them. The written statement being a necessary and essential basis for the defence, if any, they have to enable them to contest the claim at all stages viz, during actual trial and even at all further stages before higher forums - if need be. Having regard to this and keeping in view that substantial justice would be better served, in our view, by showing one more indulgence, and giving them one more chance to defend the suit. Consequently, we set aside the order of the High Court closing their defence and grant time till 30.04.2003 to file the written statement. This order will be subject to the further condition that the petitioner will pay a sum of Rs.2,000/- to the plaintiff in the courts below by a demand draft along with the written statement to be filed as

specified above. The District Judge, Solan, to whom the
...3/-

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Suit is said to have been since transferred, shall proceed from the stage of written statement, as expeditiously as possible in his view, thereafter.

The appeal shall stand finally disposed of in the above terms.

.SP1

.....J.
(DORAISWAMY RAJU)

.....J.
(D.M. DHARMADHIKARI)

New Delhi,
March 03, 2003.