

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO.4334 OF 2012  
(Arising from SLP(C) No.16720/2005)

Lalmuni Devi and others ..Appellants

versus

Jagdish Tiwari and others ..Respondents

WITH

CIVIL APPEAL NO. 4369 OF 2012  
(Arising from SLP(C) No.16761/2005)

O R D E R

Leave granted.

In these appeals, the appellants have questioned judgment dated 04.10.2004 by which the learned Single Judge of the Patna High Court dismissed the second appeal filed by them and also order dated 10.3.2005 by which the petition filed for review of judgment dated 4.10.2004 was dismissed.

One of the grounds on which the appellants had sought review of judgment dated 04.10.2004 was that the second appeal was decided without giving them effective opportunity of hearing. According to the appellants, a

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request was made on their behalf for adjournment of the case on the ground of illness of the advocate Shri Raghav Prasad who had been engaged to argue the case on their

behalf, but the learned Single Judge did not accept the request and proceeded to decide the appeal on merits.

Another ground taken by the appellants is that at the time of admission of the second appeal, the High Court had

framed one set of substantial questions of law but the appeal was finally disposed of by considering other questions of law and no opportunity of hearing was given to the appellants with reference to those questions of law.

The appellants assertion that the request made on behalf of their advocate for postponement of hearing on the ground of illness has not been controverted by the respondents. Therefore, there is no reason to discard the stand taken by the appellants that the second appeal filed by them was disposed of by the learned Single Judge without giving them an effective opportunity of hearing.

In the result, the appeals are allowed, judgment dated 4.10.2004 and order dated 10.03.2005 passed in Second Appeal No.374 of 1998 and Civil Review No.181 of 2004 respectively are set aside and the case is remitted to the High Court for fresh disposal of the second appeal.

The High Court shall issue notice to the parties indicating therein that the second appeal filed by the appellants will be heard with reference to the substantial questions of law framed at the time of admission. If,

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during the course of arguments, the High Court is satisfied that any other substantial question of law arises for

consideration then such question of law may be framed and the appeal be disposed of after giving opportunity to the parties to make their submissions in the context of the additional substantial questions of law.

Since, the litigation is pending for more than 28 years, we request the High Court to make an endeavour to decide the second appeal within a period of one year from the date of receipt/production of a copy of this order.

.....J.

[G.S. SINGHVI]

NEW DELHI;  
MAY 08, 2012

.....J.  
[SUDHANSU JYOTI MUKHOPADHAYA]

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ITEM NO.31

COURT NO.5

SECTION XVI

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).16720/2005

(From the judgement and order dated 04/10/2004 in AAD No.374/1998  
of The HIGH COURT OF PATNA)

LALMUNI DEVI & ORS.

Petitioner(s)

VERSUS

JAGDISH TIWARY & ORS.

Respondent(s)

(With prayer for interim relief and office report )  
WITH SLP(C) NO. 16761 of 2005  
(With prayer for interim relief and office report)

Date: 08/05/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s) Mr.P.N. Misra, Sr.Adv.  
Mr. Anil K. Jha,Adv.  
Ms. Chhaya Kumari, Adv.  
Ms. Alka Jha, Adv.

For Respondent(s) None

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

Leave granted.

The appeals are allowed in terms of the signed  
order.

(Parveen Kr.Chawla)  
Court Master

(Phoolan Wati Arora)  
Court Master

[signed order is placed on the file]