

ØITEM NO.113

COURT NO.6

SECTION IV

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

CIVIL APPEAL NO(s). 6925 OF 2005

MOHD. JUBER & ORS.

Appellant (s)

VERSUS

BADRI PRASAD & ORS.

Respondent(s)

(With appln(s) for permission to file additional documents and office report)

Date: 08/12/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU  
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Appellant(s) Mr. S.B.Sanyal, Sr. Adv.  
Mr. Raj Kumar Gupta, Adv.for  
Mr. Shekhar Kumar,Adv.

For Respondent(s) Mr. O.P.Saxena, Adv.for  
Mr. M.A.Chinnasamy,Adv.

Rr-Ex-Parte

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

The Appeal is disposed of in terms of the signed order.

(Parveen Kr. Chawla)  
Court Master

(Indu Satija)  
Court Master

[signed order is placed on the file]  
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6925 OF 2005

Mohd. Juber & Others

..Appellants

versus

Badri Prasad & Others

..Respondents

O R D E R

Heard learned counsel for the parties.

This Appeal has been filed against the impugned

judgment and order dated 16th October, 2003 passed by the High Court of Punjab & Haryana at Chandigarh in R.S.A. No. 3602 of 2003.

Mr. Sanyal, learned senior counsel appearing for the appellants has pressed certain points which are not mentioned in the impugned judgment.

The presumption in law is that a Judge deals with every point which is pressed before him, and if a point is not mentioned in his judgment, the presumption is that it was never pressed. It often happens that an advocate takes, say, ten grounds in the memorandum of appeal but at the time of arguments in the Court, he only pressed three of them. Naturally, the Judge will deal with those points which were urged before him and it has to be deemed that the other points were abandoned. However, this presumption is a rebuttable presumption, and if the party wants to rebut it, he has to go before the same Judge with a suitable amendment

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application stating that certain points were argued but they have not been dealt with in the judgment. If the party satisfies the said Judge that he indeed pressed those points at the time of arguments, the Judge may deal with those contentions, but it is not open to a party to raise those points before an appellate Court.

With these observations, the appeal is disposed of.

.....J.  
[MARKANDEY KATJU]

NEW DELHI;  
DECEMBER 08, 2010

.....J.  
[GYAN SUDHA MISRA]