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SLP(C)No. 3491 OF 2001

ITEM No.21

Court No. 1

SECTION XIV
A/N MATTER

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.3491/2001

(From the judgement and order dated 28/11/2000 in OSA 11/2000
of The HIGH COURT OF H.P AT SHIMLA)

RAJESHWAR SINGH & ORS.

Petitioner (s)

VERSUS

STATE OF H.P. & ANR.

Respondent (s)

(With prayer for interim relief)

Date : 11/01/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE BISHESHWAR PRASAD SINGH

For Petitioner (s) Mr. Dinesh Kumar Garg,Adv.
Mr. S.R. Sharma,Adv.
Mr. B.S. Billowri,Adv.
Ms. Ritu Puri,Adv.
Mr. Manzoor Ali Khan,Adv.

For Respondent (s) Mr. Naresh K. Sharma,Adv.

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

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Delay in filing the rejoinder is condoned.

Leave granted.

The civil appeal is allowed.

No order as to costs.

(T.I. Rajput)
Court Master

(Shelly Sengupta)
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No. 185 of 2002@@
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(Arising out of S.L.P. (C) No. 3491 of 2001)

Rajeshwar Singh & Ors. ...Appellant (s)

Versus~

State of Himachal Pradesh & Anr.Respondent (s)

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Delay in filing the rejoinder is condoned.
Leave granted.

The order under challenge, passed by a Division Bench of the High Court of Himachal Pradesh, disallowed, on appeal, an application for amendment of the plaint made by the present appellants on the ground that it introduced an altogether new cause of action and changed the nature of the suit, from a suit on accounts to a suit making a claim for a specific sum. It does not appear that any factual amendment was sought; only the nature of the relief was sought to be altered.

Learned counsel for the respondents submitted that, in seeking the amendment, the present appellants had gone beyond the scope that was given to them by an earlier order of this court. That is not the basis upon which the impugned order ...2/-

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was passed. It will be open to the respondents to take this defence, as also all other defences that may be available to them, when the matter is heard after the amendment, which we propose to allow, has been made.

The civil appeal is allowed. The order under appeal is set aside. The application to make the amendment is allowed. The amendment shall be carried out within four weeks.

No order as to costs.

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(Shivaraj V. Patil)@@
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.....J.@@
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(Bisheshwar Prasad Singh)@@
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New Delhi,
January 11, 2002.