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SLP(C)No. 5471 OF 2001  
ITEM No.44

Court No. 8

SECTION XVII  
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.5471/2001

(From the judgement and order dated 05/09/2000 in CR 553/00  
of The HIGH COURT OF PATNA)

HARADHAN MAHTO & ORS.

Petitioner (s)

VERSUS

PABI MAHATAIN & ORS.

Respondent (s)

(With prayer for interim relief)

Date : 27/08/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.P. MISRA  
HON'BLE MR. JUSTICE U.C. BANERJEE

For Petitioner (s) Mr. S.B.Sanyal, Sr.Adv.  
Mr. Ranjan Mukherjee, Adv.  
Mrs. Manita Verma, Adv.

For Respondent (s) Mr. H.L.Agrawal, Sr.Adv.  
Mr. R.K.Gupta, Adv.  
Mr. K.K. Gupta, Adv.

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

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Leave granted.

The appeal is allowed by an award of Rs. 5,000/-  
to be paid to the respondents in the High Court within a  
period of two months. Until an order is passed by the  
High Court after remand, the trial court shall not  
proceed with the matter.

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Anita

(V.P.Tyagi)  
Court Master

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2001@@

Haradhan Mahto & Ors.

...APPELLANTS

VERSUS

Smt. Pabi Mahatain & Ors.

...RESPONDENTS

O R D E R@@  
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Leave granted.  
Heard learned counsel for the parties.

The appellant has challenged the impugned order of the High Court dated 5th September, 2000. The main grievance expressed by the appellant is that on the date when the matter was taken up, the counsel for the appellant in the High Court did not appear as his appearance was not shown in the Cause List. On the other hand, learned counsel for the respondent states that the practice prevalent in the High Court of Patna is that left over cases of the particular day are carried over in the list of following day only mentioning their respective serial numbers in the Monday's list and that this case was also shown in the daily list of 5.9.2000 with its serial number.

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However, the fact remains that none had appeared for the appellant before the High Court. In view of the fact, we feel it appropriate in the interest of justice to set aside the impugned order and to remand the matter to the High Court for being decided afresh in accordance with the law, after giving opportunity to the parties.

Accordingly, we allow this appeal by an award of Rs. 5,000/- to be paid to the respondents in the High Court within a period of two months. Until an order is passed by the High Court after remand, the trial court shall not proceed with the matter.

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.....J.  
(A.P. MISRA)

New Delhi,  
August 27,2001.

.....J.  
(U.C.BANERJEE)