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SLP(C)No. 6751 OF 2004
ITEM No.9

Court No. 3

SECTION XIV

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.6751/2004

(From the judgement and order dated 14/11/2003 in RP 76/02 and dated 21/08/2002 in SA 12/1991 of The HIGH COURT OF GAUHATI)

HARIDAS DAS

Petitioner (s)

VERSUS

USHA RANI BANIK & ORS.

Respondent (s)

(With prayer for interim relief)

Date : 16/04/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.C. LAHOTI
HON'BLE MR. JUSTICE ASHOK BHAN

For Petitioner (s)Mr. A.K. Ganguli, Sr. Adv.
Ms. Barnali Basak, Adv.
Mr. Chanchal Kumar Ganguli, Adv.

For Respondent (s)

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

Learned counsel for the petitioner produced the certified copy of the plaint in Title Suit No. 201/1985 to show that the factum of the oral agreement dated 13th August, 1992 is mentioned in para 7 of the plaint.

There is also a remark made by the plaintiff at the end of the plaint that the right to institute suit for specific performance was reserved and, therefore, so far as the applicability of Order 2 Rule 2 of the Code of Civil Procedure, 1908 is concerned, the High Court has proceeded on factually wrong premises in passing the impugned order.
Issue notice to the respondents to show cause as to why the case be not remanded to the High Court for hearing and decision afresh.
Notice also to issue on the prayer for the grant of interim relief.
Liberty to file additional documents.

KALYANI
(RADHA R. BHATIA)
COURT MASTER