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SLP(C)No. 12063 OF 2000

ITEM No.207

Court No. 8

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.12063/2000

(From the judgement and order dated 10/12/1999 in CR 1198/97
of The HIGH COURT OF DELHI AT N. DELHI)

M/S. DAMODAR ROPEWAYS & CONS. CO. P.LTD.

Petitioner (s)

VERSUS

M/S. KRISHNA ENGINEERING WORKS

Respondent (s)

(With prayer for interim relief)
(For Final Disposal)

Date : 16/03/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SYED SHAH MOHAMMED QUADRI
HON'BLE MR. JUSTICE S.N. PHUKAN

For Petitioner (s) Mr. GL Sanghi, SrAdv.
M/sRaja Chatterjee, Aruna Mukherjee, Advs.
Mr. G.S. Chatterjee, Adv.

For Respondent (s) Mr.D.Ramakrishna Reddy, Adv.
Mrs.D. Bharathi Reddy, Adv.

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

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Leave is granted.
The appeal is allowed in terms of the signed order.
There shall be no order as to costs.

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[Naresh Kumar]
Court Master

[Kanwal Singh]
Court Master

[Signed order is placed on the file.]

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CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2115 OF 2001@@
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[Arising out of SLP(C) 12063/2000]

M/s Damodar Ropeways & Construction ... Appellant
Co.Private Ltd.
vs.

Krishna Engineering Works ... Respondent

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

The defendant in Suit No.3/96 titled Krishna@@
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Engineering Works vs. M/s Damodar Ropeways on the file of@@
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the Additional Distt.& Sessions Judge, Delhi is the appellant
in this appeal. It challenges the order of the High Court of
Delhi in CR 1198/97 dated December 10, 1999.

The respondent/plaintiff filed the suit against the
appellant for recovery of money, said to be damages, from the
appellant. The summons of the suit was served on the
appellant requiring it to appear on December 12, 1991. On
9.12.1991, the appellant filed an application seeking leave
to defend the case. Indeed, the application ought to have
been filed within 10 days from the date of the service of the
summons; there was thus delay in filing of the application.
The learned Additional District Judge, Delhi, having accepted
the explanation given by the applicant condoned the delay
under Section 5 of the Limitation Act and permitted it to
file written statement and contest the suit by order dated

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28.8.1997. That order was challenged by the respondent
before the High Court in Civil Revision No.1198/97 filed
under Section 115 C.P.C. By the impugned order, the High
Court set aside the said order dated 28.8.1997 on the ground
that the approach of the trial court was wrong and that the
learned trial judge did not apply its mind. We are afraid,
we cannot accept the reasoning of the High Court. In a
revision under Section 115, C.P.C., it is now well-settled,
the errors which the High Court is entitled to correct are
the errors of jurisdiction. An order condoning the delay in
filing the affidavit to contest the case by filing written
statement is not an order suffering from any error of
jurisdiction and therefore the High Court ought not to have
upset that order. On this ground we set aside the order of
the High Court under challenge and restore the order of the
learned Additional District Judge, Delhi. Accordingly, we
allow the appeal; there shall be no order as to costs.

We may observe that as the suit was filed as long back
as in the year 1984, the trial court shall dispose of the
suit expeditiously, in any event, within six months from the
date of receipt of a copy of this order.

.SP1

.....J.
[SYED SHAH MOHAMMED QUADRI]

New Delhi,
March 16, 2001.@@
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.....J.
[S.N. PHUKAN]