

x
SLP(C)No. 7460 OF 2000

ITEM No.21

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.7460/2000

(From the judgement and order dated 22/02/2000 in MA 124/96
of The HIGH COURT OF GAUHATI)

BIMAL JYOTI GUPTA

Petitioner (s)

VERSUS

KALPANA GUPTA @KALPANA DEB CHOUDHARY

Respondent (s)

(With prayer for interim relief)

Date : 23/03/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.P. MISRA
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Petitioner (s) Mr. N.R. Choudhary, Adv.
Mr. Somnath Mukherjee, Adv.
Mr. J.P. Pandey, Adv.

For Respondent (s) Mr. G.S. Chatterjee, Adv.
Mr. Raja Chatterjee, Adv.
Mr. Sachin Das, Adv.

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

.....L.....I.....T.....T.....T.....T.....T.J..
.SP2

Leave granted.

We accordingly set aside the impugned order
and remit the matter back to the High Court for
deciding the same afresh. The High Court will
decide the matter after giving opportunities to
the counsel for the parties and dispose it of in
accordance with law. There shall be no order as
to costs.

.SP1

(K.K. Chawla)
Court Master

(V.P. Tyagi)
Court Master

[Signed order is placed on the file]

.PL70

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2001
(Arising out of SLP(C) No.7460 of 2000)

BIMAL JYOTI GUPTA

APPELLANT

VERSUS

KALPANA GUPTA @KALPANA DEB CHOUDHARY

RESPONDENT

O R D E R@@
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.SP2

Leave granted.

Heard learned counsel for the parties.

We find that the High Court has disposed of the first appeal as if it was disposing of a second appeal. No findings recorded by the trial court were discussed by the High Court both on evidence and law. It is required in law that first appellate court must appraise itself to the questions raised in the matter both on facts and law and after scrutinizing the same, it must record its findings. We find that the High Court has failed to consider as required in law while disposing of the first appeal. The impugned order is unsustainable. We accordingly set aside the impugned order and remit the matter back to the High Court for deciding the same afresh. The High Court will decide the matter after giving opportunities to the counsel for the parties and dispose it of in accordance with law. There shall be no order as to costs.

.SP1

.....J.
(A.P. Misra)

.....J.
(B.N. Agrawal)

New Delhi,
March 23, 2001.