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SLP(C)No. 10523 OF 2000
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3343 OF 2003
[Arising out of S.L.P.(C) No.10523/2000]

PADMANATH GOSWAMI
...
APPELLANT (S)

VERSUS

BANAMALI DAS @ BANORAM DAS
...
RESPONDENT (S)

O R D E R

Leave granted.

The suit filed by the respondent against the petitioner being Title Suit No.112/1986 was decreed by the Munsiff. An objection to the suit being barred by limitation was decided against the petitioner/defendant. In appeal, however, the learned Asstt. District Judge, Barpeta had set aside the judgment and decree passed by the Munsiff and suit was dismissed. That order was challenged by the respondent in the High Court in Second Appeal No.62/1993. By the impugned order, the judgment of Asstt. District Judge has been reversed and that of Trial Court restored. The defendant in the Title Suit is before us.

The High Court has not answered the question of the suit being barred by limitation or not. It has held that the question of limitation is irrelevant and academic. One of the substantial issue between the parties was that of law of limitation and the applicability of the relevant article of the Limitation Act. As above-stated, the Trial Court answered the limitation issue in favour of the plaintiff-respondent and the First Appellate Court answered that in favour of the appellant-defendant. Only after coming to the conclusion that the suit was within limitation, the Court could go into the question of the status of the Khatian, that is, whether it was illegal and without authority of law. Under no circumstances, the question of limitation could be said to be irrelevant and academic as held by the High Court in the impugned judgment.

Without expressing any opinion either on the question of limitation or other points that have been decided in the Second Appeal No.62/1993, we set aside the impugned judgment of the High Court and remand the Second Appeal for fresh decision of the High Court. The High Court would also decide the question of limitation. We request the High Court to expeditiously decide the Second Appeal.

The parties are directed to appear before the Registrar General of the Gauhati High Court on 2nd May, 2003.

The appeal is disposed of accordingly.

.....J.
(Y.K. SABHARWAL)

.....J.

(H.K. SEMA)
New Delhi,
April 10, 2003.
ITEM No.202

Court No. 7

SECTION XIV
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.10523/2000

(From the judgement and order dated 21/12/1999 in SA 62/93
of The HIGH COURT OF GAUHATI)

PADMANATH GOSWAMI

Petitioner (s)

VERSUS

BANAMALI DAS

Respondent (s)

(With prayer for interim relief and office report)
(For Final Disposal)

Date : 10/04/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE Y.K. SABHARWAL
HON'BLE MR. JUSTICE H.K. SEMA

For Petitioner (s)Mr.P.K. Goswami, Sr. Adv.
Mr. Rajiv Mehta, Adv.

Mr. Rajiv Malhotra, Adv.

For Respondent (s)Mr. Manish Goswami, Adv.
Mr. Rameshwar Prasad Goyal, Adv.

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

Leave granted.

The appeal is disposed of in terms of the signed order.

The parties are directed to appear before the Registrar General of the Gauhati High Court on 2
nd May, 2003.

(P.D. Balodi) (V.P. Tyagi)

Court Master Court Master

(The signed order is placed on the file)