

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.6432/2004

(From the judgement and order dated 12/03/2004 in SAT 550/04
of The HIGH COURT AT CALCUTTA)

NAND KUMAR KANDOI

Petitioner (s)

VERSUS

GOBIND RAM KHEM

Respondent (s)

(With Appln(s). for exemption from filing c/c of the impugned Judgment and with prayer for in
terim relief)

Date : 12/04/2004 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. Vijay Hansaria, Sr. Adv.
M/s. Jayesh K.U. & Sunil Kumar Jain, Advs.

For Respondent (s)Mr. Subrata Kumar Dutt, Adv.
M/s. Avijit Dey, Raja Chatterjee and
Mr. G.S. Chatterjee, Adv.

UPON hearing counsel the Court made the following

O R D E R

The respondent has made appearance on caveat.

With the consent of the learned counsel for the parties, the matter is heard finally.

Leave granted.

The appeal is allowed in terms of the signed order.

No order as to the costs.

The parties through their respective counsel are directed to appear before the First Appellate
Court on 10th May, 2004.

KALYANI

(RADHA R. BHATIA)
COURT MASTER

(SIGNED ORDER IS PLACED ON THE FILE.)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2004
(ARISING OUT OF SPECIAL LEAVE PETITION (C) NO. 6432/2004)

NAND KUMAR KANDOI

.....

APPELLANT (S)

VERSUS

GOBIND RAM KHEM

.....

RESPONDENT (S)

O R D E R

The respondent has made appearance on caveat.

With the consent of the learned counsel for the parties, the matter is heard finally.

Leave granted.

In the facts and circumstances of this case, we feel that examination of appellant-Nand Kumar Kandoi in the Court is necessary for the ends of justice.

The appeal is allowed. The judgment of the High Court and that of the VIIIth Court of Additional District Judge, Alipore are set aside. The case is remanded to the First Appellate Court. The First Appellate Court shall in exercise of its power under Order 41 Rule 27 of the Code of Civil Procedure, 1908 examine the appellant-Nand Kishor Kandoi or have his statement recorded by the Trial Court, as may be thought fit by the Court. Once the evidence is recorded, the appeal shall be heard and decided afresh and finally within a period of four months thereafter.

No order as to the costs.

The parties through their respective counsel are directed to appear before the First Appellate Court on 10th May, 2004.

.....J
(R.C. LAHOTI)

.....J
(ASHOK BHAN)

NEW DELHI;
APRIL 12, 2004.