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SLP(C)No. 10015 OF 2000

ITEM No.36

Court No. 6

SECTION IVB
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.10015/2000

(From the judgement and order dated 17/11/1999 in CR 5644/99
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

JARNAIL SINGH

Petitioner (s)

VERSUS

MOHINDER KAUR

Respondent (s)

(With prayer for interim relief)

Date : 09/02/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE
HON'BLE MR. JUSTICE N. SANTOSH HEGDE

For Petitioner (s) Mr. KK Jagia, Adv.
Mr. Jasbir Singh, Adv.
Mr. S.K. Sabbarwal, Adv.

For Respondent (s) Ms. Neelam Kalsi, Adv.
Mr. Vimal Chandra S. Dave, Adv.

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

Leave granted.

The appeal is allowed. There shall be no
order as to costs.

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(Alka Dudeja)
Court Master

(S. Krishnan)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO 1148 OF 2001
(Arising out of SLP © No.10015/2000)

Jarnail Singh & Appellant
Vs.
Mohinder Kaur & Respondent

O R D E R

Leave granted.

The plaintiff-respondent filed a suit for possession. On 27.11.89, the suit was decreed ex-parte as the defendant-appellant did not appear. On 5.10.91, the defendant-appellant moved an application for setting aside the ex-parte decree dated 27.11.89. In the said application, it was stated that the appellant had no knowledge of the notice alleged to have been published in the daily newspaper Ranjit printed and published from Patiala. It was also stated that the said newspaper had no circulation in village Badheri, Chandigarh where the defendant-appellant resides. However, the trial Court rejected the said application. Thereafter the appellant preferred a miscellaneous appeal before the District Judge, Chandigarh, which was also dismissed. A revision filed before the High Court also met with the same fate. Aggrieved with the said order, the appellant has preferred this appeal.

We have heard counsel for the parties and perused the record. The High court was of the view that since the newspaper daily Ranjit printed and published from Patiala is approved by the High Court for purposes of substituted service, the publication of notice in the said newspaper was sufficient service on the appellant. The case of the appellant was that daily newspaper Ranjit has no circulation at all in village Badheri, Chandigarh. The High Court has not recorded any finding that daily newspaper Ranjit published from Patiala has circulation in Chandigarh. In absence of such finding we are of the view that the appellant has no notice of the suit. The appellant has made out sufficient cause for setting aside the ex parte decree

as well as the appellate and revisional orders. For the aforesaid reasons we set aside the judgment of the court s below. The trial Court is directed to proceed with the suit after giving opportunity to the appellant.

The appeal is allowed. There shall be no order as to costs.

& & & & & & & & & ..J.
(V.N. Khare)

& & & & & & & & ..J.
(N. Santosh Hegde)

New Delhi,
February 9, 2001.