

SLP(C)No. 7804 OF 2003
ITEM No.209

Court No. 3

SECTION XIV

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.7804/2003

(From the judgement and order dated 30/01/2003 in CMM 667/02
of The HIGH COURT OF DELHI AT N. DELHI)

M/S. SAMSON ELECTRICALS & ANR.

Petitioner (s)

VERSUS

HANSRAJ MIGLANI

Respondent (s)

(With Appln. (s) for c/delay in filing counter affidavit
and c/delay in filing rejoinder)(With prayer for interim relief)
(With office report) (For Final Disposal)

Date : 23/04/2004 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. Ajay Veer Singh, adv.
Mr. B.S.Jain, Adv.
Md. Shahid Mussain, Adv.
Dr. (Mrs.) Vipin Gupta, Adv.
Mr. Shankar Divate,Adv.

For Respondent (s)Mr. Sanjay Katyal, Adv.
Mr. Raj K. Pandey, Adv.
Mr. Kuldip Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

Delay in filing counter affidavit and rejoinder affidavit is condoned.

Counter and rejoinder are taken on record.

Leave granted.

The appeal is allowed in terms of the signed order.

The parties through their respective counsel are directed to appear before the High Court on 1
2th July, 2004.

(Ajay Kr. Jain)
(Radha R. Bhatia)
Court Master
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2654 OF 2004
(Arising out of SLP(C) No. 7804 of 2003)

M/s. Samson Electricals & Anr.
....
Appellants

Versus

Hansraj Miglani

.....

Respondent

O R D E R

Leave granted.

A petition preferred before the High Court, seeking exercise of its revisional jurisdiction, has been refused to be adjudicated upon merits by the High Court forming an opinion that it did not have jurisdiction to do so in view of the amendment introduced in Section 115 of the Code of Civil Procedure by the Amending Act No. 46 of 1999, though the High Court felt that prima facie the order of the learned Civil Judge impugned before it was not sustainable. However, the reluctance shown by the High Court cannot be countenanced in view of the decision of this Court in Surya Dev Rai Vs. Ram Chander Rai & Ors. (2003) 6 SCC, 675.

..2/-

The appeal is allowed. The impugned judgment of the High Court is set aside and the case is remanded to the High Court for hearing and decision afresh in the light of the law laid down by this Court in Surya Dev Rai's case (supra).

The parties through their respective counsel are directed to appear before the High Court on 12th July, 2004.

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

.....J.
(ASHOK BHAN)

New Delhi

April 23, 2004