

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.9020/1999

(From the judgement and order dated 25/01/1999 in LPA 706/98  
of The HIGH COURT OF PATNA)

VIDYAWATI DEVI

Petitioner (s)

VERSUS

ARUN K. SINHA & ORS  
( With Office Report )

Respondent (s)

Date : 22/03/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU  
HON'BLE MRS. JUSTICE RUMA PAL

For Petitioner (s)

Mr. D.N. Goburdhan, Adv.  
Ms. Pinky Anand, Adv.  
Ms. Geeta Luthra, Adv.

For Respondent (s)

.....  
Mr. B.B. Singh, 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.

The appeal is allowed in terms of the signed  
order.

.SP1

Charanjit

[ Om Prakash ]  
Court Master

[ Signed order is placed on the file ]

L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....R  
IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2002@@  
EEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEE  
( Arising out of SLP(C) 9020/1999 )

Vidyawati Devi ...Appellant(s)

Versus

Arun K Sinha & Ors. ...Respondent(s)

O R D E R

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

The High Court by an order made in appeal arising out of Tile Suit No.60/26 of 1971/77 and an appeal thereto bearing T.A. No. 54/1978 set aside the order made by the lower appellate Court and remitted the same for fresh consideration in accordance with law on the basis of the findings brought on record. The matter stood remitted to the District Court.

It is brought to our notice that the said matter got transferred to the Additional District Judge's Court and the matter was disposed of without knowlege to the parites. Thereafter, an application was filed for restoration of the appeal and the same came to be dismissed on the ground that there is delay in preferring such an application. The delay is only three months and the explanation given was that the son of the aplicant was ill and he could not attend the matter in question. In the circumstances, the High Court ought to have taken this aspect into consideration while setting aside the order made by the learned District Judge and restore the appeal for consideration in accordance with law.

In the circumstances, we think it appropriate to set aside the order made by the High Court in second appeal and that of the learned District Judge made on 12.5.1998 and restore the matter to the file of learned District Judge for fresh consideration in accordance with law. The appeal is allowed accoordingly.

.SP1  
.....J  
[ S. RAJENDRA BABU ]

.....J  
[ RUAM PAL ]

New Delhi,  
March 22, 2002