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ITEM NO.24

COURT NO.11

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(s).7963/2011

(From the judgement and order dated 10/12/2010 in WP No. 457/1992
& RP No.499/2010 of The HIGH COURT OF DELHI AT N. DELHI)

HARISH CHAND RASTOGI

Petitioner(s)

VERSUS

LAND ACQUISITION COLLECTOR & ORS.

Respondent(s)

(With prayer for interim relief)

Date: 04/04/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr.K.Vishwanathan, Sr.Adv.
Mr.Sarin Suri, Adv.
Mr.Gunjan Kumar, Adv.
Mr. Sumit Kumar,Adv.

For Respondent(s)

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

The writ petition filed by the petitioner challenging the
acquisition proceedings was dismissed by the High Court by
recording the following order :-

"Nobody has appeared on behalf of the
petitioner. On going through the averments made
in the petition it is clear that the acquisition
is challenged only after the announcement of the
Award and taking over the possession of the
acquired land by the Government. The petition at
this belated stage after pronouncement of the
Award and taking over the possession is not
maintainable.

Dismissed."

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Although, it is not clear from the record as to when the
restoration/recall application was filed, but this much is evident
that when the application was taken up for hearing on 23.12.2009,
no one bothered to appear on behalf of the petitioner leaving the
High Court with no choice but to dismiss the same for
non-
prosecution. Another application was filed by the petitioner with

all possible excuses for non-appearance of the advocate
on

22.09.2008 and 23.12.2009. The same was dismissed by the Division

Bench of the High Court vide order dated 13.07.2010.

The petitioner did not challenge orders dated 22.09.2008

, 23.12.2009 and 13.07.2010 by availing appropriate remedy but filed

an application for review of order dated 13.07.2010. The Division
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Bench of the High Court did not find any error in the order and
dismissed the review petition.

We have heard Shri K.V.Vishwanathan, learned senior counsel

appearing for the petitioner, who made strenuous efforts
to

convince us that the petitioner should not suffer due to the fault

of his advocate. We appreciate the endeavour of the lear
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counsel but are not inclined to agree with him. If the part
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engages a counsel and he does not represent its cause before the

Court, the appropriate remedy available to the aggrieved party is

to approach the Bar Council of India or file a complaint under the

Consumer Protection Act, 1986. The orders passed by the High Court

disposing of the matter on merits in the first instance
and

dismissing the application for restoration/recall for
non-

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prosecution cannot be faulted on any ground.

With the above observations, the special leave petition is
dismissed.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master