

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).10041/2012

(From the judgement and order dated 13/12/2011 in CR No.7672/2011 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

BHAGWANTI SETHI

Petitioner(s)

VERSUS

SURINDER SINGH RAWAT

Respondent(s)

(With prayer for interim relief and office report)

Date: 19/11/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE P. SATHASIVAM

HON'BLE MR. JUSTICE RANJAN GOGOI

For Petitioner(s)

Ms. Monika Sharma,Av.

Mr. Rohit Vats, Adv.

Mr. Vipul Sharma, Adv.

Mr. Daya Krishan Sharma,Adv.

For Respondent(s)

Mr. Mohit Jaggi, Adv.

Mr. V. Sashwat Gupta, Adv.

Dr. Kailash Chand,Adv.

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

Leave granted.

The appeal is allowed.

[Usha Bhardwaj]
Court Master

[Savita Sainani]
Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8172 OF 2012

(Arising out of S.L.P. (C) No.10041 of 2012)

Bhagwanti Sethi

.....Appellant

Versus

O R D E R

Leave granted.
Heard both sides.

The reasoning of the High Court in disposing of the Revision filed under Article 227 of the Constitution of India granting relief in favour of the petitioner before it (respondent herein) cannot be accepted for more than one reason. The High Court, first of all, without issuing notice and hearing the respondent accepted the case of the petitioner even at the preliminary hearing and permitted him to pay an additional court fee payable for the suit for specific performance which was filed originally in the shape of mandatory injunction. Secondly, the High Court cannot proceed and set aside the order passed by the Trial Court merely on the basis of offer made by the petitioner for paying additional court fee.

On going through the relief sought for in the original suit, the claim of the parties and the impugned order we are unable to accept the conclusion of the High Court. Inasmuch as the impugned order was passed without issuing notice to the respondent and direction to the Trial Court to treat the suit for specific

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performance without expressing anything on the merits of the respective claim of the parties, we set aside the impugned order of the High Court and remit the matter to the High Court with a direction to restore the Civil Revision Petition No.7672/2011 on its file and dispose of the same after affording opportunity to both parties in accordance with law.

The appeal is allowed accordingly.

.....J.
(P.SATHASIVAM)

.....J.
(RANJAN GOGOI)

NEW DELHI;
NOVEMBER 19, 2012.