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SLP(C)No. 8925 OF 2003
ITEM No.29

Court No.11

SECTION IVB

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.8925/2003

(From the judgement and order dated 10/04/2003 in CR 1788/03
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

HARBANS KAUR

Petitioner (s)

VERSUS

GURMAIL SINGH & ORS.

Respondent (s)

(With appln(s) for exemption from filing/c of the impugned judgment and
for interim relief)

with prayer

Date : 10/07/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Petitioner (s) Mr. S. S. Chandi, Adv.
Mr. G.G. Singh, Adv.

Mr. Debasis Misra, Adv.

For Respondent (s)

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel appearing for the petitioner.

The trial Court refused the prayer for making amendment in the plaint. When the matter was taken to the Punjab & Haryana High Court against the said order in Civil Revision, the Court dismissed the same on merits. It is well settled that in view of the amendment in Section 115 of the Civil Procedure Code by virtue of Civil Procedure Code (Amendment) Act of 1999 which has come into force with effect from July 1, 2002, the Civil Revision application against the said order was not maintainable and, therefore, the Court was not justified in going into the merits of the Revision Application.

This being the position, we may observe that it would be open to the parties to challenge correctness of the said order passed by trial Court in appeal, if any, taken by any of the parties against the decree which will be passed upon the conclusion of trial and if it is so done, the appellate Court shall consider the same on its own merits without being prejudiced by any observation in the impugned order passed by the High Court. It is clarified that if the respondents feel aggrieved by this order, it would be open to them to move this Court for its recall. The Special leave petition is dismissed accordingly.

(Meenu Sethi)

Court Master

(Om Prakash)

Court Master