

SLP(C)No. 12571 OF 2003
ITEM No.39

Court No.11

SECTION XIV
A/N MATTER

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.12571/2003

(From the judgment and order dated 4.12.2002 passed in R.F.A. No.777/2000 of The High Court of Delhi at New Delhi)

R.K. GOEL

Petitioner (s)

VERSUS

SURENDRA K. KAPUR

Respondent (s)

(With Office Report)

Date : 06/02/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL
HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Petitioner (s)

Mr. Balbir Singh Gupta,Adv.

For Respondent (s)

Mr. Rakesh K. Sharma,Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

Appeal is allowed, impugned order is set aside and the matter is remitted to the High Court for deciding the appeal on merit after providing opportunity of hearing to the parties. There shall be no order as to costs.

(Vijay Kumar Sharma) (Kanwal Singh)
AR cum PS to Hon.Judge Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.845 OF 2004
(Arising out of SLP (c) No.12571/2003)

R.K. GOEL..Appellant

Versus

SURENDRA K. KAPUR..Respondent

O R D E R

Leave granted.

Heard the learned counsel appearing on behalf of the parties.

By the impugned order the High Court has dismissed the Regular First Appeal preferred against the decree passed in a suit. It is well settled that in an appeal against decree, the appellate court is obliged under law to consider evidence adduced by the parties. The said procedure has been given a complete go by in the instant case by the High Court while disposing of the appeal by the impugned order. This being the position, we have no option but to remit the matter to the High Court. Accordingly, the appeal is allowed, impugned order is set aside and the matter is remitted to the High Court for deciding the appeal on merit in accordance with law after giving opportunity of hearing to the parties. There shall be no order as to costs.

.....J
(B.N. Agrawal)

.....J
(Dr.AR. Lakshmanan)

New Delhi,
February 6, 2004