

ITEM NO.44

COURT NO.5

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)...../2012  
CC 8092/2012

(From the judgment and order dated 03/01/2012 in CRP No.200/2010  
of The HIGH COURT OF DELHI AT NEW DELHI)

MANOHAR SINGH

Petitioner(s)

VERSUS

D.S.SHARMA AND ANR

Respondent(s)

(With appln(s) for c/delay in filing SLP and office report)

Date: 04/07/2012

This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s)

In person

For Respondent(s)

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

Delay condoned.

The petitioner is aggrieved by dismissal of  
the revision preferred by him against the order  
of the trial Court which had rejected the  
application filed by him under Section 148 of the  
Code of Civil Procedure for enlargement of time  
for depositing the cost.

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We have heard Shri Manohar Singh who has  
appeared in person and carefully perused the  
record.

The suit filed by the petitioner for award  
of damages was dismissed by the trial Court due

to non deposit of the cost imposed vide order dated 7.1.2004. The revision filed by him was dismissed by the Delhi High Court. This Court allowed the appeals filed by the petitioner vide judgment dated 13.11.2009, the operative portion of which reads as under:

"In view of the above, we allow these appeals, set aside the judgments of the High Court and the trial court, restore the suit to its file, subject to the following:

(i) the right of the plaintiff to cross-examine DW2 stands forfeited and he is barred from prosecuting the suit further.

(ii) the trial court shall however permit the defendants to let in any further evidence, hear arguments and then dispose of the suit.

(iii) However, if plaintiff-appellant tenders the costs with an appropriate application under section 148 CPC, the trial court may consider his request in accordance with law. Even if the court extends the time for deposit, permits the plaintiff to pay the costs and prosecute the suit further, that will not entitle the plaintiff to cross-examine DW2."

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In terms of Clause (iii) of the aforesaid order, the petitioner should have filed an application under Section 148 CPC along with the amount of costs, but he did not do so and deposited the amount of costs after 20 days of the date of application filed under Section 148 CPC.

The trial court opined that the application was not filed within the time prescribed under Section 148 CPC and also that there were no valid grounds to extend the time.

The learned Single Judge of the High Court did not approve the reasoning of the trial Court

on the issue of the filing of application within the period prescribed under Section 148 CPC but declined to interfere with dismissal of the application by observing that the petitioner had not shown any tangible reason for enlargement of time.

In our view, the reasons assigned by the High Court for declining to interfere with the order of the trial court are correct and the impugned order does not call for interference under Article 136 of the Constitution of India.

The special leave petition is, accordingly,  
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dismissed.

[KALYANI GUPTA]  
COURT MASTER

[PHOOLAN WATI ARORA]  
COURT MASTER