

B-
SLP(C)No. 14725 OF 2001

ITEM No.30

Court No. 8

SECTION IVB
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.14725/2001

(From the judgement and order dated 08/03/2001 in RSA 629/96
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

MEWA LAL

Petitioner (s)

VERSUS

NARESH KUMAR GUPTA & ORS.

Respondent (s)

(With Appln(s). for substitution & c/delay in filing substitution
appln. and with prayer for Interim Relief)

Date : 24/02/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE Y.K. SABHARWAL
HON'BLE MR. JUSTICE H.K. SEMA

For Petitioner (s) Mr. RK. Jain, Sr.Adv.
Mr. KP. Singh, Adv.
Mr. MM. Aggarwal, Adv.
Mr. CM. Patel, Adv.
Mr. M.M. Kashyap,Adv.

For Respondent (s) Mr. SS. Khanduja, Adv.
Mr. Anjani Kumar Jha,Adv.

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

.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J
.SP2

After hearing learned counsel for the parties for
about 10 minutes, the Court granted leave and disposed of the
appeal and the application for substitution.

.SP1

(S. Thapar) (V.P. Tyagi)@@
AA
PS. to Registrar Court Master@@
AA

The signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2003@@
EEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEE
(Arising out of SLP(C)No. 14725/2001)

Mewa Lal

Appellant (s)

Versus

Naresh Kumar Gupta & Ors.

Respondent (s)

O R D E R@@
EEEEEEEEEE

Leave granted.

The Suit for rendition of accounts and dissolution of partnership was filed before the Trial Court. In the partnership, which is the subject matter of the Suit, Kirori Ram one of the partners, had 40 per cent share and his son, namely, the appellant in this appeal had 10 per cent. The other group had 50 per cent share, inasmuch as, 40 per cent in the name of the father and 10 per cent in the name of the son. Kirori Ram died during the pendency of the Suit but his legal representatives were not brought on record. The High Court, in the impugned judgment, while reversing the judgment and decree of the Ist Appellate Court, though as noticed, that in such a Suit Kirori Ram could not be given up but has observed that it should have been pointed out by the trial court to the counsel who gave up Kirori Ram and did not wish to move an application for bringing on record his legal representatives. The High

-2-

Court, though noticed, that no rendition of accounts could take place in presence of all the partners, still went ahead and set aside the judgment of the Ist Appellate Court and directed the appointment of a Local Commissioner to go into the accounts and decreed the Suit for rendition of accounts and dissolution of the firm M/s Aggarwal Sales Corporation, Manimajra, against the appellant and others in terms of the impugned order.

In view of the settlement between the parties realising that the relief cannot be granted in absence of the representation of Kirori Ram, it is not necessary to examine in detail the approach adopted by the High Court. On consent of the parties, impugned judgment of the High Court is set aside and the Suit is remitted to the Trial Court. Parties agree that Kirori Ram had not filed written statement before his death. It is further agreed that legal representatives of Kirori Ram would be brought on record as defendants and no objection will be taken about limitation or any other technical objection on the aspect of bringing those legal representatives on record. The legal representatives would be

entitled to file written statement and take such pleas which were open to Kirori Ram. It is hoped that the Suit would be decided expeditiously.

-3-

The appeal and the application for substitution are disposed of in the above terms.

.SP1

.....J
(Y.K. Sabharwal)

New Delhi,
February 24, 2003

.....J
(H.K. Sema)