

@*

SLP(C)No. 16348-16349 OF 2000
ITEM No.203

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.16348-16349/2000

(From the judgement and order dated 23/07/1998 in RSA 425/92
and final order dated 26/05/2000 in CRP 3/2000 of the High
Court of H.P at Shimla)

KRISHAN GOPAL

Petitioner (s)

VERSUS

BADRI PARKASH

Respondent (s)

(With Appln(s). for c/delay in filing SLP and exemption from filing
c/c of the impugned Judgment and office report)
(For Final Disposal)

Date : 19/07/2002 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DORAISWAMY RAJU
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL

For Petitioner (s) Mr. Anil Nag,Adv.

For Respondent (s) Mr. Ajit Singh Bawa,Adv.
Mr. Atishi Dipankar,Adv.

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

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

Heard learned counsel for the parties for about ten
minutes.

Leave granted.

The appeals are disposed of in terms of the signed
order. No costs.

.SP1

(Neena Verma)
Court Master

(K.K. Chadha)
Court Master

Signed order is placed on the file.

.PA

L.....T.....T.....T.....T.....T.....T.....T.....T.....R
.PL55

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.4198-4199 OF 2002@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC
(@ Special Leave Petition (C) Nos.16348-16349/2000)

Krishan Gopal Appellant

Versus

Badri Parkash Respondent

O R D E R@@
CCCCCCCC

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

Leave granted.

The above appeals have been filed against the judgment of a learned Single Judge of the High Court of Himachal Pradesh in RSA No.425/1992 whereunder the learned Single Judge chose to set aside the concurrent judgments of the courts below and the dismissal of the review petition filed thereon, subsequently.

Heard the learned counsel appearing on either side.

Learned counsel for the respondent raised an objection as to the delay of 660 days with which the above appeals have been filed. Keeping in view the fact that subsequently review proceedings have been instituted and lost and also the patent error and irregularity in the manner of disposal of the appeal itself, we consider it ...2/-

.PA

: 2 :

appropriate and necessary to condone the delay to set right serious irregularity committed thereby in this case. The delay is, therefore, condoned.

However, at the threshold, the learned counsel for the appellant submitted that no substantial question of law has been formulated by the learned Single Judge before disposing of the appeal and the procedure adopted resulted in a serious irregularity, committed in gross violation of the mandatory provisions contained in Section 100 (5) of the CPC as also the law repeatedly laid down by this Court, in more than one decision. This ground of challenge is a formidable one and deserves to be upheld. In our view the judgment under appeal is liable to be set aside on this ground alone and we do so by allowing the appeal. The judgment dated 23.07.1998 in RSA No.425/92, as well as the one passed in the review petition are set aside and consequently, the matter is remitted to the file of the High Court to restore the RSA to its original file to formulate the substantial questions of law, if any, arising on the facts of the case and thereafter proceed to dispose of the ...3/-

.PA

: 3 :

matter afresh and in accordance with law, after hearing both parties.

The appeals are disposed of in the above terms. No costs.

.SP1

.....J.
(DORAISWAMY RAJU)

.....J.
(SHIVARAJ V. PATIL)

New Delhi,
July 19, 2002.