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SLP(C)No.15495-15496/2000
ITEM No.50

Court No. 7

SECTION XIV
A/N MATTER

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No.15495-15496/2000

(From the judgement and order dated 14/07/2000 and 3.8.2000 in SAO
54/98 and CM No.662/2000 in SAO 54/98 of The HIGH COURT OF DELHI
AT N. DELHI)

AZIZ AHMED

Petitioner (s)

VERSUS

ABDUL RASHID

Respondent (s)

(With prayer for interim relief)

Date : 15/01/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.P. MISRA
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Petitioner (s) Mr. Aseem Mejarptra,Adv.
Mr. Divyang K. Chhaya,Adv.
Mr. Abhijat P. Medh,Adv.

For Respondent (s) Mr. Aseem Mehrotra,Adv.
Mr. Sanjeev Sachdeva,Adv.

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

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Leave granted. Appeals are disposed of.

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(Ganga Thakur)
P.S.to Registrar

(V.P. Tyagi)
Court Master

Signed order is placed on the file

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 625-626 OF 2001@@
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Aziz Ahmed

Appellant

Vs.

Abdul Rashid

Respondent

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Leave granted.

Heard learned counsel for the parties.

The present appeal is directed against the order dated 20th July, 2000 passed by the High Court. The High Court records in its order to the following effect:

"On 10th May 2000 when this appeal came up for hearing, it was represented that the learned counsel for the appellant is not well. The matter was adjourned to 19th May 2000 on which date it was again stated that learned counsel for the appellant is not well. It was made clear that there was an interim order in favour of the appellant since 1998 and that in case the learned counsel for the appellant is not available, the appellant will have to make alternative arrangements.

Since, even on the subsequent date learned counsel for the appellant was not present in spite of the case being called twice, thus the High Court dismissed the second appeal and did not interfere with the order passed by the Rent Controller. It is not in dispute, in view of these facts, High Court did not enter into the questions raised by the appellant. No doubt in the background of aforesaid facts, absence of counsel could not be approved. The counsel concerned should have taken at least some step subsequently, through any application showing some good reason of his absence. But for this reason we do not think it appropriate to deprive appellant at least to have his say before the High Court.

We feel it appropriate, in the interest of justice, to set aside the impugned order passed by the High Court, by awarding costs on the appellant of Rs.2,000/- which should be paid to the respondent by depositing the same in the High Court within six weeks from today which may be withdrawn by the respondent. The case is remanded back to the High Court for deciding the second appeal afresh after giving opportunity to both the parties. We make it clear that on the date to be fixed by the High Court for final disposal the counsel for the appellant there will not seek further adjournments in this matter. With the said observation the present appeals are disposed of. The High Court will take up this matter and decide the same, when the copy of this order is placed before it.

.....J.
(A.P. Misra)

New Delhi,

.....J.

January 15, 2001.

(B.N. Agrawal)