

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

RECORD OF PROCEEDINGS

Civil Appeal No. 683 of 1996@@
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Gulab Singh

Appellant (s)

Versus

Devendra Kumar

Respondent (s)

(With Office Report)

Dated: 27/02/2002: This appeal was called on for hearing today.

CORAM:

HON'BLE MR. JUSTICE V.N. KHARE
HON'BLE MR. JUSTICE ASHOK BHAN

Petitioner (s)

Mr. Randhir Jain, Adv.

Respondent (s)

Mr. Dharam Bir Raj Vohra, Adv.

UPON hearing Counsel, the Court made the following
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Learned counsel for the parties argued the matter for ten minutes.

The appeal is allowed subject to the payment by way of costs of Rs.5,000/-.

.SP1

(Ganga Thakur)
PS to Registrar

(S. Krishnan)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA@@
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CIVIL APPELLATE JURISDICTION@@
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CIVIL APPEAL NO. 683 OF 2001@@
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Gulab Singh Sisodia Appellant

-Versus-

Devendra Kumar Respondent

O R D E R@@
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The respondent, who is the landlord of the premises in dispute, filed a petition for eviction of the appellant.

The appellant had filed written statement and contested the said petition. 15th November,1999 was the day fixed for the examination of witnesses of the plaintiff-respondent. It appears, on the said date the defendant-appellant's counl was present in the Court but subsequently disappeared from the court and did not come to the court upto 2.35 p.m. and the court was kept waiting for him. Subsequently, he brought another advocate but he had also refused to cross examine the witness. Under such circumstances, the trial court did not permit the defendant-appellant to further cross examine the plaintiff-respondent. Aggrieved, the defendant, appellant preferred a revision before the High ..2/-

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court and the same was dismissed. Against the said judgment the apellant prefered this appeal by way of Special Leave Petition.

This Court, while entertaining the Spelcial leave petition, passed the following order:

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"Issue notice confined to the question whether the High Court was justified in directing the trial court to strike off the defence of the petitioner. Meanwhile the proceeding before the trial court in Case No.4A/97 shall remain stayed"

.....L.....I.....T.....T.....T.....J.....
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We have heard learned counsel for the appellant and perused the matter. We were not initially inclined to interfere with the order passed by the High Court as it was just and fair order. However, learned counsel for the appellant stated that the appellant sincerely regrets for the conduct of his counsel before the trial court and is willing to file an affidavit before the trial court showing his sincere regret. In that view of the matter, we feel that one more opportunity be granted to the appellant to defend his case and cross examine the witnesses.

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Under such circumstances, order of the trial court as well as of the High court are set aside.

The appeal is allowed, subject to the payment by way of costs of Rs.5,000/- in addition to an affidavit to be filed by the defendant-appellant before the trial court within four weeks. Since none has appeared for the respondent, this cost be payable to the plaintiff before the trial court.

.SP1

.....J.
(V.N. Khare)

New Delhi,
February 27,2002.

.....J.
(Ashok Bhan)

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months the last instalments shall be paid in the last remaining four months. It is clarified that 2nd, 3rd and 4th instalments shall carry interest at the rate of 14% on the balance amount. In case the amount is paid the appellant herein undertakes to grant/sanction the conversion of lease from residential to commercial use in respect of 21, Kasturba Ganghi Marg, New Delhi within a period of three months from the date of the receipt of the last instalment. Further the appellant would be entitled to determine any breach having committed by the respondents herein, will be liable to pay compound charges for such breaches in accordance with law. In case any default is committed by the respondents to comply with the aforesaid directions, the appeal under challenge shall be deemed to be set aside and the appeal shall be treated as having been allowed.

For the aforesaid reasons, the appeal is disposed of. There shall be no order as to costs.

.SP1

.....J.

(V.N. Khare)

New Delhi,
February 26, 2002.

.....J.
(Ashok Bhan)