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SLP(C)No. 15936-15937 OF 1999

ITEM No.206

Court No. 6

SECTION IVA  
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.15936-15937/1999

(From the judgement and order dated 13/08/1999 in LPA 195/99 and dated 17/4/1999 in WP 5334/98 of The HIGH COURT OF M.P AT JABALPUR)

RAM MILAN PAL & ORS

Petitioner (s)

VERSUS

STATE OF M.P. & ORS

Respondent (s)

( With Appln(s). for exemption from filing O.T. and exemption from filing c/c of the impugned Judgment and permission to submit additional document(s) and with prayer for interim relief )  
( For Final Disposal )

Date : 04/05/2001 These Petitions were called on for hearing today.

CORAM :

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

For Petitioner (s) Dr. Rajeev Dhawan, Sr. Adv.  
Mr. Prakash Shrivastava, Adv.

For Respondent (s) Mr. Satish K. Agnihotri, Adv.  
Mr. Anil K. Pandey, Adv.  
Mr. Rohit Kumar Singh, Adv.

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

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Leave granted.  
The appeal is allowed in terms of the signed order.  
Costs on the parties.

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Sarita (Shelly Sengupta) @@  
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Court Master@@  
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(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 3728-3729 OF 2001@@  
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(Arising out of SLP(C) Nos. 15936-15937/1999)

RAM MILAN PAL & ORS. . . . . APPELLANTS

VERSUS

STATE OF M.P. & ORS. . . . . RESPONDENTS

O R D E R@@  
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Leave granted.

Dr. Rajeev Dhawan, learned senior counsel appearing for the appellants submits that the High Court was not right in dismissing the Letters Patent Appeal as not maintainable, treating the order passed by the learned Single Judge to be under Article 227 of the Constitution of India. He submits, impugned order is liable to be set aside and appellants be given an opportunity to contest the appeal on merits.

It is not in dispute, the writ petition was filed by the appellants both under Articles 226 and 227 of the Constitution of India. In view of the decision of this Court in Sushilabai Laxminarayan Mudliyar & Ors. -Vs.- Nihalchand@@  
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Waghajibhai Shaha & Ors. reported in (1993) Supp.1 SCC 11, a@@  
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Letters Patent Appeal would lie against an order on a writ  
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petition under Articles 226 and 227 of the Constitution of India.

In view of this, the impugned order of the High Court holding that the LPA is not maintainable since it was filed under Article 227 is not correct. Accordingly, the impugned order is set aside. The case is remanded back to the High Court to treat the LPA as maintainable and decide the same on merits after giving opportunity to the parties.

The present appeal is allowed. Costs on the parties.

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.....J.  
(A.P. MISRA)

New Delhi, .....J.

May 4, 2001.

(B.N. AGRAWAL)