

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.16004/1999

(From the judgment & Order dated 14.7.99 in CRP 83/99  
of the High Court of Jammu and Kashmir at Jammu)

JAI KISHAN SHAM LAL AND SONS & ORS.

Petitioner (s)

VERSUS

HARDUTT SHARMA

Respondent (s)

( With Appln(s). for urging addl. grounds )

Date : 06/11/2000 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE  
HON'BLE MR. JUSTICE N. SANTOSH HEGDE

For Petitioner (s) Mr. CS Vaidyanathan, Sr.Adv.  
Mr. R.S. Suri, Adv.  
Mr. VK Shailendra, Adv.  
Mr. Devraj, Adv.

For Respondent (s) Mr. E.C. Agrawala, Adv.  
Mr. AP Agrawala, Adv.  
Mr. Rishi Agrawal, Adv.  
Mr. Mahesh Agrawal, Adv.  
Mr. Ashwani Kumar, Adv.

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

Leave granted.

The appeal is disposed of. There shall be  
no order as to costs.

.SP1

(Alka Dudeja)  
Court Master

(S. Krishnan)  
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO 6218 OF 2000  
(Arising out of SLP@ No. 16004 of 1999)

Jai Kishan Sham Lal and Sons & ors. .. Appellants

-versus-

Hardutt Sharma .. Respondent

O R D E R

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

Leave granted.

This appeal is directed against the order and judgment dated 14.7.1999 passed by the High Court.

The appellants herein filed a suit before the trial court praying that the decree passed by learned sub-Judge, Jammu on 22.10.1979 be set aside. The suit was decreed by the trial court on 30.3.1983. The respondent preferred an appeal against the said decree. During pendency of the first appeal, one of the partners of the firms who was one of the plaintiffs - Shri P.L.Dua, died. The respondent who was the appellant in the appeal did not take any step for substitution of deceased P.L.Dua. Under such circumstances, the appellant filed an application before the appellate court that the appeal may be held as abated. The said plea of the appellant was rejected by the appellate court. The appellant thereafter preferred a revision petition before the High Court. The High Court, agreeing with the view of the trial court rejected the revision petition. It is in this way the appellants are in appeal before this Court.

After we heard the matter we feel that the question whether the appeal has abated or not was required to be decided along with other issues involved in the appeal. We, therefore, set aside the order under appeal and direct the appellate court to decide the appeal on merits along with the questions involved in the present appeal, expeditiously.

The appeal is disposed of accordingly. No costs.

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

& & & & & & .J.  
(N.Santosh Hegde)

New Delhi;  
November 06, 2000