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SLP(Crl.)No. 407 OF 2001

ITEM No.28

Court No. 8

SECTION IIA
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 (Crl.) No. 407/2001

(From the judgement and order dated 18/08/2000 in CRLR 931/98
of The HIGH COURT OF M.P AT JABALPUR)

SHANKAR LAL AGRAWAL Petitioner (s)

VERSUS

NAND KISHORE RATERIA & ANR. Respondent (s)

(With Appln(s). for stay and impleading party and office report)

Date : 01/10/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE U.C. BANERJEE
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s) Mr. R.K. Jain, Sr. Adv.
Mr. Prakash Srivastava, Adv.
Mr. Arun Beriwal, Adv.
Mr. A.P. Dhamija, Adv.
Mr. P.P. Singh, Adv.

For Respondent (s) Mr. S.S. Shamsbery, Adv.
Dr. Kailash Chand, Adv.

Mr. R.C. Kohli, Adv.

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

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

.SP2
Leave granted.
The appeal succeeds and the order of the High Court
is set aside. No order as to costs.

.SP1
Kalyani. (D.D. JINDAL)@@
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COURT MASTER @@
A AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA

(Signed Order is placed on the file.)

.PL60

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2001@@
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(Arising out of SLP(Crl.) No. 407 of 2001)

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

Shankar Lal Agrawal Appellant

Versus

Nand Kishore Rateria & Anr. Respondents

O R D E R@@
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.....L.....I.....T.....T.....T.....T.....T.....T.....J

.SP2

Leave granted.

Upon hearing the submissions made on behalf of the parties, in our view, the High Court has approached the matter from a totally erroneous point of view. Section 145(1) of the Code of Criminal Procedure does not authorise the High Court to direct the Magistrate to add any party and record a fresh finding as to who is in actual possession. The order is ex-facie bad and as such cannot be sustained. The appeal, therefore, succeeds and the order of the High Court is set aside. No order as to costs.

.SP1

.....J
(U.C. BANERJEE)

.....J
(BRIJESH KUMAR)

New Delhi,
October 1, 2001.