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SLP(C)No. 1309 OF 2001
ITEM No.207

Court No. 4

SECTION IVB
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.1309/2001

(From the judgement and order dated 20/11/2000 in CR 4873/2000
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

M/S. KUNDAN LAL RAMESH KUMAR

Petitioner (s)

VERSUS

JAGDISH RAI & ORS.

Respondent (s)

(With prayer for interim relief)
(For Final Disposal)

Date : 13/07/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s)

Mr. Naresh K. Sharma, Adv.
Mr. Kapil Sharma, Adv.

For Respondent (s)

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

.....L.....I.....J
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Though notice has been duly served indicating that the
special leave application would be disposed of at the
admission stage, there has been no appearance on behalf of the
respondents.

Leave granted.

Appeal disposed of in terms of the signed order.

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(J.S. Rawat)
Court Master

(Suneet Bala Sharma)
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. of 2001@@
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(Arising out of SLP(C) No. 1309/2001)

M/s. Kundan Lal Ramesh Kumar ...Appellant (s)

Versus

Jagdish Rai & Ors. ...Respondent(s)

O R D E R~@@
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Though notice has been duly served indicating that the special leave application would be disposed of at the admission stage, there has been no appearance on behalf of the respondents.

Leave granted.

The grievance of the appellant is that non-examination of its witnesses on 17th of October, 2000 was because of continuance of strike of the District Bar Association and as such the Controller should have permitted the appellant to examine its witnesses as directed by the High Court while disposing of CR No. 4038/2000 by order dated 26.9.2000. The Controller however being of the opinion that the High Court permitted examination of the witnesses subject to payment of cost only on 17th October, 2000 and that opportunity not having been available of, he has no jurisdiction to allow the examination of the witnesses. Against the said order, the matter was carried to the High Court in CR No. 4873/2000

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which stood dismissed in limine by the High Court by its order dated 20.11.2000. It is no doubt true that in Civil Revision No.4038/2000 the High Court had permitted examination of Ramesh Lal, Roshan Lal and the Clerk of Nehru Memorial P.G. College on 17th October, 2000. But that order cannot be construed to mean that if for certain unforeseen circumstances, the witnesses could not be examined on that date, then the same cannot be done at a later point of time. It is not disputed that the District Bar Association was on strike on 17.11.2000 which prevented the appellant to examine the witnesses on that date. In that view of the matter, the Controller should have permitted the appellant to examine those witnesses and the High Court committed error in not interfering with the order of refusal passed by the Controller.

In the aforesaid circumstances, we set aside the impugned order of the High Court as well as that of the Controller and direct that the Controller would permit the appellant to examine the three witnesses as ordered by the High Court in its order dated 26.9.2000. This appeal is disposed of accordingly.

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(G.B. PATTANAIAK)@@
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New Delhi,
July 13, 2001

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(BRIJESH KUMAR)@@
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