

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 (Civil) No(s).20647-20648/2003

(From the judgment and order dated 26/09/2003 in civil Misc. Nos.11165 and 11166 of 2003 in RSA

No.3021 of 1979 dated 16.1.2003 of The HIGH COURT OF PUNJAB & HARYANA AT

CHANDIGARH)

BHAGWAN SINGH (D) BY LRS. & ORS.

Petitioner(s)

VERSUS

GURDEV SINGH(DEAD)

Respondent(s)

(with appln.(s) for ex-parte stay and substitution and c/delay in filing substitution application and

exemption from filing O.T. and with prayer for interim relief and office report)

(for final disposal)

Date: 21/07/2006 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.P. MATHUR

HON'BLE MR. JUSTICE R.V. RAVEENDRAN

For Petitioner(s)

Mr. Mahabir Singh, Adv.

Mr. Rakesh Dahiya, Adv.

Mr. Nikhil Jain, Adv.

Mr. D. Mahesh Babu,Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

Despite service of notice, no one appears on behalf of the

respondent.

Leave granted.

The appeal is allowed in terms of the signed order.

(K.K. Chawla)

(Radha R.

Bhatia)

Court Master

Court

Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3092 OF 2006

[ARISING OUT OF SLP (CIVIL) NOS.20647-20648 OF 2003]

BHAGWAN SINGH (D) BY LRS. & ORS. ... APPELLANTS

VERSUS

GURDEV SINGH(DEAD) ... RESPONDENT

O R D E R

Despite service of notice, no one appears on behalf of the respondent.

Leave granted.

We have heard learned senior counsel for the Appellants and have perused the order passed by the High Court. While hearing the restoration application, the High Court directed the counsel for the appellants to argue the appeal on merits. According to Mr. Mahabir Singh, learned senior counsel for the appellants, since the restoration application was on board, the counsel was

not prepared with the merits of the appeal and, therefore, he was not in a position to argue the appeal itself.

We find merit in the submission made by Mr. Mahabir Singh and are of opinion that the dismissal of restoration application on the said ground was not proper. In these circumstances, the order of the High Court deserves to be set aside and the restoration application requires fresh consideration on merits.

In the result, the appeal is allowed and the order dated 26th September, 2003 passed by the High Court is set aside. The restoration application moved by the appellants for restoration of the Regular Second Appeal No.3021 of 1979 shall be heard afresh in accordance with law.

.....J.
(G.P. Mathur)

.....J.
(R.V. Raveendran)

New Delhi;
July 21, 2006.