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SLP(C)No. 22642-22643 OF 2003
ITEM No.34

Court No.11

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.22642-22643/2003

(From the judgement and order dated 31/03/2003 and 12.5.2003 in RSA 2823/99 and C.M.No.5290 -C of 2003 in RSA 2823/99 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

RAM KISHAN

Petitioner (s)

VERSUS

RAM NATH & ORS.

Respondent (s)

(With prayer for interim relief and office report)

Date : 05/11/2004 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH
HON'BLE MR. JUSTICE ARUN KUMAR

For Petitioner (s)

Mr. S.K. Bansal, Adv.
Mrs. Savitri Bansal, Adv.

Dr. Kailash Chand, Adv.

For Respondent (s)

Mr. Sandeep Kumar, Adv.

Mr. Goodwill Indeevar, Adv.

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

Leave granted.

Heard counsel for the parties.

Counsel for the appellant submits that even if the counsel did not appear before the High Court in the second appeal, the court could have dismissed the second appeal in

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default of appearance but could not have dismissed the appeal on merit. He relies upon Order 41 Rule 19 CPC read with explanation.

Having regard to the facts and circumstances of the case and after hearing counsel for the respondents, we set aside the order of the High Court and remit the case to the High Court to dispose of the same in accordance with law after hearing the parties. The counsel for the appellant is directed to appear before the Registrar General of the High Court on 22.11.2004 and the Registrar General will intimate to him the date on which the second appeal shall be listed before the court.

The appeals are disposed of in the above terms.

(Satish K. Yadav) (Asha Joshi)
Court Master Court Master
(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOs. 7340-7341 OF 2004
(Arising out of SLP(C) 22642-22643 of 2003)

RAM KISHANAPPELLANT

VERSUS

RAM NATH & ORS.
.....RESPONDENTS

O R D E R

Leave granted.

Heard counsel for the parties.

Counsel for the appellant submits that even if the counsel did not appear before the High Court in the second appeal, the court could have dismissed the second appeal in default of appearance but could not have dismissed the appeal on merit. He relies upon Order 41 Rule 19 CPC read with explanation.

Having regard to the facts and circumstances of the case and after hearing counsel for the respondents, we set aside the order of the High Court and remit the case to the High Court to dispose of the same in accordance with law after hearing the parties. The counsel for the appellant is directed to appear before the Registrar General of the High Court on 22.11.2004 and the Registrar General will intimate to him the date on which the second appeal shall be listed before the court.

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The appeals are disposed of in the above terms.

.....J.
(B.P. SINGH)

.....J.

(ARUN KUMAR)

NEW DELHI ;
NOVEMBER 5 , 2004 .