

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)...../2010  
(CC 14132/2010)

(From the judgement and order dated 16/02/2006 in SA No. 713/1976  
& final judgment and order dated 16.7.2010 in CMRA No. 197592/2007  
in SA No.713 of 1976 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

DIN(MOHAMMAD(D) TR.LRS. Petitioner(s)

VERSUS

WAZIR AHMAD & ORS. Respondent(s)

With I.A.1 (C/delay in filing SLP and office report)

Date: 17/09/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Ms.Mukti Chowdhary, Adv.  
Mr. Abhishek Chaudhary,Adv.

For Respondent(s)

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

This petition is directed against order dated 16.2.2006 of  
the learned Single Judge of the High Court of Allahabad whereby he  
dismissed the second appeal preferred by the petitioners against  
the judgment and decree of the lower appellate Court as also order  
dated 16.7.2010 by which the learned Single Judge declined the  
petitioners' prayer for recall of order dated 16.2.2006. The  
petitioners have also filed an application for condonation of 1554  
days' delay in challenging order dated 16.2.2006.

We have heard learned counsel for the petitioners and perused  
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the record. In our view, the delay in filing the special leave  
petition against order dated 16.2.2006 deserves to be condoned  
because the application filed by the petitioners for recall of  
that order was dismissed after almost 2 years and 4 months  
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Ordered accordingly.

Learned counsel for the petitioners made efforts to persuade  
us to interfere with the discretion exercised by the learne

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Single Judge of the High Court not to entertain her clients'

prayer for recall of order dated 16.02.2006 but we have not felt

convinced. It is not possible to accept the submission of the

learned counsel that the advocate to whom the petitioners had

engaged to conduct the second appeal had abstained from the

proceedings of the High Court merely because he was designated as

senior advocate. In our view, even if the advocate had been

designated as senior advocate, he was under an obligation to

appear before the Court or make an alternative arrangement for

representation of the petitioner. Be that as it may, we do not

find any justification to entertain the petitioners' prayer for

setting aside the impugned order.

The special leave petition is accordingly dismissed.

However, it is made clear that if the petitioners so choose,

they may file an appropriate application/complaint under the

Consumer Protection Act, 1986 for recovery of the loss suffered by

them on account of non-appearance of the counsel.

(Satish K.Yadav)  
Court Master

(Phoolan Wati Arora)  
Court Master