

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(s).31049 / 2008

(From the judgement and order dated 11/11 / 2 008 in CM( M) No. 1240 /2008 of  
The H I G H C O U R T O F D E L H I A T N. D E L H I )

SUR I N D E R D H I L L A N Petitioner(s)

VE R S U S

VI P I N SAH N I Respondent(s)

(With appln(s) for permission to place addl. documents on record and prayer for  
interim relief and office report)

Date: 30/03 / 2 009 This Petition was called on for hearing today.

COR A M :

HON' B L E M R. JUST I C E R.V. RA V E E N D R A N  
HON' B L E M R. JUST I C E M A R K A N D E Y K A T J U

For Petitioner(s)  
Mr. Debasis Misra,Adv.

For Respondent(s)  
Mr. Neeraj Shekhar,Adv.

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

Leave granted. Heard.  
The appeal is allowed in terms of the signed order.

(Anand Singh) (Pawan Kumar)  
Assistant Registrar Court Master  
(signed order is placed on the file)

I N T H E S U P R E M E C O U R T O F I N D I A  
C I V I L A P P E L L A T E J U R I S D I C T I O N

C I V I L A P P E A L N O. 2064 OF 2009  
(arising out of SL P(C)NO.31049 of 2008)

SUR I N D E R D H I L L A N ... P E T I T I O N E R

VE R S U S

VI P I N SAH N I ... R E S P O N D E N T

O R D E R

Leave granted. Heard.

The defendant in the suit for possession filed by respondent is  
the appellant before us. His defence has been struck off by the trial

court for non-filing of written statement by order dated 26.09.2007.

The application for recalling the said order was dismissed on 23.09.2008. The writ petition filed by the appellant under Article 227 challenging the rejection of the recall application was also rejected by the High Court on 11.11.2008.

Having regard to the cause shown by the defendant-appellant, and to avoid any delay on account of leave being granted, the learned counsel for the respondent stated without prejudice to his contentions, that the appellant may be given a final opportunity to file his written statement subject to the conditions/costs.

...2/-

:2 :

On the facts and circumstances, we find that the appellant deserves a chance to file his written statement. We therefore allow this appeal and set aside the impugned order of the High Court and the order of the trial court dated 23.09.2008, recall the order striking of defence and allow the application for taking written statement on record subject to the appellant paying Rs.2,500/- to the respondent as costs. Trial court shall endeavour to expedite the disposal of the suit.

.....J.  
( R.V. RA V E E N D R A N )

.....J.  
( M A R K A N D E Y K A T J U )

NE W DE L H I ,  
M A R C H 30, 2009.