

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.1386-1387 OF 2019
(Arising out of SLP (C) No.13916-13917 of 2017)

PAWAN KUMAR & ORS.

APPELLANT(S)

VERSUS

UMA DEVI

RESPONDENT(S)

O R D E R

Leave granted.

These appeals are directed against the judgment and final order dated 7th November, 2016 and 19th December, 2016 passed by the High Court of Uttarakhand at Nainital in Second Appeal No.100 of 2015 whereby the application for restoration filed by the appellants was dismissed on the ground of non-prosecution.

Having heard learned counsel for the parties and on perusal of the record of the case, we are inclined to allow these appeals and set aside the impugned order and in consequence restore the Second Appeal No.100 of 2015 filed by the appellants to its file for its hearing on merits in accordance with law.

We have perused the application made by the appellants for restoration of the second appeal before the High Court and find that it does make out sufficient ground for restoration of the appeal. In the interest of

justice, the appellants are entitled for one more indulgence which we hereby grant to them, for hearing of their appeal on merits.

The appellants, however, shall have to pay cost of Rs.10,000/- (Rs.ten thousand) to the respondent for restoration of their appeal for its hearing.

The High Court shall now take up the appeal with a view to find out whether it involves a substantial question of law within the meaning of Section 100. If the appeal involves substantial question of law then it shall deal with the same. If the High Court comes to the conclusion that appeal does not involve a substantial question of law it shall proceed accordingly.

The parties to appear before the High Court on 5th March, 2019 to enable the High Court to proceed with the matter.

The appeals are allowed in the above terms.

.....J.
[ABHAY MANOHAR SAPRE]

.....J.
[DINESH MAHESHWARI]

NEW DELHI
FEBRUARY 1, 2019.

