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ITEM NO.1

COURT NO.9

SECTION XV

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).11948/2010

(From the judgement and order dated 18/05/2009 in SBCMA No.543/2009 of The  
HIGH COURT OF RAJASTHAN AT JODHPUR)

KAMLA Petitioner(s)

VERSUS

NEMI CHAND Respondent(s)

Date: 13/09/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN  
HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA

For Petitioner(s) Mr. Rishi Matoliya,Adv.  
Ms. Preeti Thanvi,Adv.  
Mr. Sarad Kumar Singhania,Adv.

For Respondent(s) Ms. Charu Mathur,Adv.

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

Leave granted.

In terms of the signed order, the appeal is allowed and  
the impugned judgment and order of the High Court is set aside.  
The matter is remitted to the High Court to decide afresh giving  
reasons dealing with factual and legal issues agitated before it  
by the learned counsel for the parties.

(O.P. Sharma) (M.S. Negi)  
Court Master Court Master  
(Signed order is placed on the file)  
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6477 OF 2012  
(Arising out of SLP(C)NO.11948/2010)

KAMLA ..APPELLANT

VERSUS

NEMI CHAND ..RESPONDENT

O R D E R

Leave granted. Heard learned counsel for the parties.

2. This appeal has been preferred against the impugned judgment and order dated 18.5.2009 passed by the learned Single Judge of the High Court of Rajasthan at Jodhpur in S.B. Civil Miscellaneous Appeal No.543/2009 by which it has rejected the appeal of the appellant for enhancement of maintenance.

3. The trial Court while dealing with the application under Section 25 of the Hindu Marriage Act, 1955 had awarded a sum of ` 70,000/- (Rupees Seventy Thousand) for the appellant and ` 35,000/- (Rupees Thirty Five Thousand) each for her two minor children. Thus, the total amount of ` 1,40,000/- (Rupees One Lakh Forty Thousand) has been awarded as a permanent alimony for the appellant and her two minor children.

4. Aggrieved, the appellant preferred the appeal before the High Court which has been disposed of by the High Court without making any change and that too without any reason whatsoever. The relevant part of the judgment reads as under:

"3. Having heard the learned counsel and upon perusal of the impugned order, this Court is of the opinion that the amount of permanent alimony awarded by the Court below in the facts and circumstances of the case is just and proper and no further enhancement deserves to be given in the present appeal."

As the matter was in appeal before the High Court, it was supposed to give some reasons while deciding the appeal however, brief the reasons could be.

5. In the facts and circumstances of the case, as no reason has been recorded by the High Court, while deciding the appeal, we are of the considered opinion that the impugned judgment cannot be sustained in the eyes of law and is liable to be set aside. Hence, the appeal is allowed and the impugned judgment and order of the High Court is set aside. The matter is remitted to the High Court to decide afresh giving reasons dealing with factual and legal issues agitated before it by the learned counsel for the parties.

6. Before parting with the case, it may also be mention that the learned counsel for the parties have expressed their desire that an attempt may be made to resolve the controversies between the parties by making reference to the mediation. The High Court may try for mediation referring the matter to the Mediation Centre of the High court at Jodhpur.

.....J.  
( DR. B.S. CHAUHAN )

.....J.  
( FAKKIR MOHAMED IBRAHIM KALIFULLA )

NEW DELHI ,  
SEPTEMBER 13, 2012.