

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 8941/2017
(Arising out of Special Leave Petition(C) No(s). 1056/2015)

SMT. BHAGWATI DEVI

APPELLANT (s)

VERSUS

NATHU (D) THR. L.RS. AND ANR.

RESPONDENT (s)

O R D E R

Leave granted.

We have heard learned counsel for the parties.

The appellant herein filed suit for specific performance which was dismissed by the Trial Court. Against the judgment and decree passed by the Trial Court, the appellant preferred first appeal in the High Court. However, it was placed under defects. When those defects were not cured, the matter came up before the Court on 22.05.2012 and the court granted six weeks time to the appellant to cure the defects and peremptory order was passed in case the defects are not cured, the appeal shall be treated as dismissed for non-prosecution. Though the appellant filed extra sets of the appeal paper book, there was a delay of 44 days in filing the same. When the matter came up before the Registrar on 14.09.2012, the Registrar dismissed the first appeal in view of the peremptory order dated 22.05.2012 that was passed by the Court. The appellant challenged the order of the Registrar and also filed

an application for restoration which has been dismissed by the High Court vide impugned judgment dated 11.04.2014.

After going through the matter, we are of the opinion that since the appellant had cured the defects, though not within the time granted by the High Court and the delay was also not substantial, the said delay in curing the defects should have been condoned by the High Court. We, accordingly, set aside the impugned order passed by the Registrar as well as the High Court and restore the appeal to its original number.

Let the matter be placed before the High Court on 16.08.2017. The appellant shall not unduly delay the proceedings. We impress upon the High Court also to try the appeal as expeditiously as possible.

The appeal is, accordingly, allowed.

.....J.
[A.K. SIKRI]

.....J.
[ASHOK BHUSHAN]

NEW DELHI;
JULY 10, 2017

ITEM NO.12

COURT NO.7

SECTION XV

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 (C) No(s). 1056/2015

(Arising out of impugned final judgment and order dated 11-04-2014 in CMRA No. 762/2012 in CFA No. 137/2008 passed by the High Court Of Rajasthan At Jaipur)

SMT. BHAGWATI DEVI

Petitioner(s)

VERSUS

NATHU (D) THR. L.RS . AND ANR.

Respondent(s)

Date : 10-07-2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s) Mr. Thakur Sumit, Adv.
Mr. Rajesh Goyal, AOR

For Respondent(s) Ms. Shobha, AOR
Mr. Bonny Mehra, Adv.

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

The appeal is allowed in terms of the singed order.

Pending application(s), if any, stands disposed of accordingly.

(ASHWANI KUMAR)
COURT MASTER

(MALA KUMARI SHARMA)
COURT MASTER

(SIGNED ORDER IS PLACED ON THE FILE)