

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

**CIVIL APPEAL NO(S).7333-7334 OF 2018
[ARISING OUT OF SPECIAL LEAVE PETITION
(CIVIL) NO.33618-33619/2017]**

AVISHEK KUMAR SINGH ...APPELLANT(S)

VERSUS

PRAVEEN SINGH & ORS. ...RESPONDENT(S)

ORDER

1. Leave granted.

2. The decree passed on admission under Order XII rule 6 of the Code of Civil Procedure, 1908 was challenged in Regular First Appeal before the High Court.

3. The High Court after hearing the matter for some time disposed of the appeal on consent terms which, inter alia, were to the effect that the suit would be adjudicated on merits as per the time schedule set out in the order of the High Court.

4. Alleging that there was a breach of the time frame by the defendants an application for review/recall was filed which was refused. Hence, these appeals.

5. We have heard the learned counsels for the parties. We have read and considered the counter affidavit filed on behalf of the respondents - defendants, particularly, paragraph 2 thereof. On such consideration we are left with great doubt as to whether the High Court ought to have adopted the course of action that it did instead of hearing the matter on merits.

6. Without adverting to the aforesaid aspect of the matter any further we are of the view that the orders of the High Court dated 25th May, 2017 passed in R.F.A.(O.S) No.73 of 2016 and dated 1st September, 2017 passed in Review Application No.343 of 2017 in R.F.A. No.(O.S.) No.73 of 2016 are

liable to be set aside which we accordingly do. The appeal will now be heard by the High Court on merits. We request the High Court to decide the appeal as expeditiously as possible.

7. The appeals are disposed of in the above terms.

....., J.
(RANJAN GOGOI)

....., J.
(R. BANUMATHI)

....., J.
(NAVIN SINHA)

NEW DELHI
JULY 31, 2018

ITEM NO.17

COURT NO.2

SECTION XIV

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). 33618-33619/2017

(ARISING OUT OF IMPUGNED FINAL JUDGMENT AND ORDER DATED 25-05-2017 AND 01-09-2017 IN RFAOS NO. 73/2016 AND IN RA NO. 343/2017 IN RFAOS NO. 73/2016 PASSED BY THE HIGH COURT OF DELHI AT NEW DELHI)

AVISHEK KUMAR SINGH

PETITIONER(S)

VERSUS

PRAVEEN SINGH & ORS.

RESPONDENT(S)

Date : 31-07-2018 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MRS. JUSTICE R. BANUMATHI
HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s)

Mr. M.L. Verma, Sr. Adv.
Mr. Rajiv Tyagi, AOR
Mr. Rohit Gupta, Adv.

For Respondent(s)

Mr. Ravi Gupta, Sr. Adv.
Mr. L.B. Rai, Adv.
Mr. Shankar Divate, AOR

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

Leave granted.

The appeals are disposed of in terms of the signed
order.

[VINOD LAKHINA]

AR-cum-PS

[ASHA SONI]

BRANCH OFFICER

[SIGNED ORDER IS PLACED ON THE FILE]