

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s). OF 2017
(Arising out of SLP(C) No. 994 of 2012)

VINOD KUMAR

Appellant(s)

VERSUS

SUBHASH RAI & ORS.

Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the parties.

It appears that earlier vide order dated 25.01.2011 passed by the High Court of Delhi at New Delhi two opportunities were given to adduce the evidence subject to payment of cost of Rs.5,000/- (Rupees five thousand only). The next date fixed thereafter before the trial court was 25.03.2011. However it appears that Presiding Officer was on leave and the next date fixed was 23.04.2011. The trial court closed the evidence as no witness was present and cost was not paid.

It was only first date when Presiding Officer was present whereas two opportunities had been given even though cost should have been paid on that date. In our opinion, the court erred in closing the evidence. The ends of justice

would be met if we set aside the order passed by the trial Court passed on 23.4.2011 and permit the appellant to make the payment of the cost before the trial court on the next date. The appellant would also be permitted to cross examine the witnesses of the plaintiff, if no cross examination has been made. On a date fixed by the trial court, one more opportunity shall be given by the trial court to adduce the evidence to the appellant. The appeal, accordingly, stands disposed of.

.....J.
(ARUN MISHRA)

.....J.
(MOHAN M. SHANTANAGOUDAR)

NEW DELHI;

SEPTEMBER 11, 2017

ITEM NO.2

COURT NO.8

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). 994/2012

(Arising out of impugned final judgment and order dated 12-07-2011 in CMM No. 762/2011 passed by the High Court of Delhi at New Delhi)

VINOD KUMAR

Petitioner(s)

VERSUS

SUBHASH RAI & ORS.

Respondent(s)

(FOR [PERMISSION TO FILE ANNEXURES] ON IA 4/2015
FOR [PERMISSION TO FILE ANNEXURES] ON IA 5/2015

Date : 11-09-2017 This matter is called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Petitioner(s) Mr. K. V. Bharathi Upadhyaya, AOR
Ms. Hema Malik, Adv.

For Respondent(s) Mr. Rishi Malhotra, AOR

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

Leave granted.

The appeal is disposed of in terms of the signed order.

Pending application, if any shall stand disposed of.

(NEELAM GULATI)
COURT MASTER (SH)

(TAPAN KUMAR CHAKRABORTY)
BRANCH OFFICER

(SIGNED ORDER IS PLACED ON THE FILE)S