

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5331 OF 2017

(Arising out of SLP (C) No.3547 of 2017)

KAVITA JAIN

... Appellant

VERSUS

SATYA PRAKASH GOEL

... Respondent

O R D E R

Leave granted.

Heard Mr. Brajkishore Mishra, learned counsel for the appellant and Mr. S.S. Kulshrestha, learned senior counsel appearing for the respondent.

The present appeal, by special leave, calls in question the legal propriety of the order dated 7.9.2016 passed in SCC No.243 of 2016 whereby the High Court of Judicature at Allahabad has set aside the judgment and order dated 18.5.2016 passed by the trial Court and remitted it for reconsideration.

Having heard learned counsel for the parties, we are of the considered opinion that when the entire evidence was before the High Court and there had been inadvertence to the same by the trial Court, it could have decided the *lis* on merits and not remanded the matter.

In view of the aforesaid, we allow the appeal, set aside the

impugned judgment and order passed by the High Court and remand the matter to the High Court to advert to the evidence and other documents brought on record and dispose of the same on merits within six months hence. Needless to say, as we have set aside the order passed by the High Court, there shall be no reference to the impugned order in the course of fresh adjudication. There shall be no order as to costs.

.....,J.
(Dipak Misra)

.....,J.
(A.M. Khanwilkar)

New Delhi;
April 17, 2017.

ITEM NO.54

COURT NO.2

SECTION XI

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). 3547/2017

(Arising out of impugned final judgment and order dated 07/09/2016 in SCC No. 243/2016 passed by the High Court of Judicature at Allahabad)

KAVITA JAIN

Petitioner(s)

VERSUS

SATYA PRAKASH GOEL

Respondent(s)

(with appln. (s) for exemption from filing O.T. and interim relief and office report)

Date : 17/04/2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE A.M. KHANWILKAR

For Petitioner(s) Mr. Brajkishore Mishra, Adv.
Mr. Prakash Kumar Singh, AOR
Mr. Mohd. Naved, Adv.
Mr. Sarbendra Kumar, Adv.

For Respondent(s) Mr. S.S. Kulshrestha, Sr. Adv.
Mr. Ajit Pandey, Adv.
Mr. Danish Zubair Khan, AOR

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

Leave granted.

The appeal is allowed in terms of the signed order. There shall be no order as to costs.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master

(Signed order is placed on the file)