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SLP(C)No. 16138 OF 2001
ITEM No.206

Court No.10

SECTION XIV
A/N MATTER

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.16138/2001

(From the judgement and order dated 04/09/2001 in CM 2182/01
of The HIGH COURT OF DELHI AT N. DELHI)

ASCHARAJ LAL

Petitioner (s)

VERSUS

DILBAGH RAI OBEROI & ANR.

Respondent (s)

(With prayer for interim relief)
(For Final Disposal)

Date : 25/01/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.C. LAHOTI
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s) Mr. Vipin Kumar Gupta,Adv.
Mr. Anil Kumar Juneja,Adv.
Mr. Aditya Kumar Choudhary,Adv.
Mr. Ugra Shankar Pd.,Adv.

For Respondent (s) Ms. Binu Tamta,Adv.

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

.....L.....I.....T.....T.....T.....T.....T.....T.....J
.SP2

Learned counsel for the parties addressed the Court
for about five minutes.

Leave granted.

The appeal is allowed in terms of the signed order.
No order as to costs.

.SP1

(Neena Verma)
Court Master

(Radha Rani Bhatia)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.699 OF 2002@@
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(@ Special Leave Petition (C) No.16138/2001)

Ascharaj Lal Appellant

Versus

Dilbagh Rai Obereoi & Anr. Respondents

O R D E R@@
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None appears for respondent No.2, though served.
Leave granted.

During the pendency of civil revision, the learned Vacation Judge of the High Court granted an interim order on 08.06.2001, staying operation of the impugned order of the Trial Court dated 23rd May, 2001. It appears that there was a default on the part of the appellant in taking steps for serving the respondents and, therefore, on 16.08.2001, the High Court directed the stay order dated 08.06.2001 to be vacated. The appellant, then, remedied the default and took steps for serving the respondents and also moved an application on 29.08.2001 seeking revival of the interim order of stay. By order dated 04.09.2001, the application has been rejected.

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In our opinion, in the facts and circumstances of the case, though the High Court may have been justified on 16.08.2001 in vacating the interim order of stay for the default of the petitioner, the High Court ought not to have taken too rigid a view on the application dated 29.08.2001 filed by the appellant and once the default was remedied, some indulgence should have been shown to the appellant unless, on merits, the High Court formed an opinion that the stay order did not deserve to be continued.

For this short reason, the appeal is allowed. The interim order dated 08.06.2001 is restored to remain in operation until the High Court, on merits, decides the revision or deems it proper to vacate the same.

The appeal is allowed in the above terms. No order as to costs.

.SP1

.....J.
(R.C. LAHOTI)

New Delhi,
January 25, 2002.

.....J.
(BRIJESH KUMAR)