

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.5717 OF 2009
(Arising out of S.L.P. (C) No.12700 of 2003)

Balgobind Mahto (D) Through LRs.

...Appellant(s)

Versus

Chamari Thakur (D) Through LRs.

...Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the appellants.

In spite of service of notice, nobody has entered appearance on behalf of the respondents to contest the prayer made in this appeal.

Title Appeal No.39 of 1984 was dismissed for non-prosecution on 12th March, 1997. When an application for restoration of the same was filed, it was rejected. Thereafter, the said order was confirmed by the High Court in appeal filed by the appellant. Hence, this appeal by special leave.

Having heard learned counsel appearing on behalf of the appellants and perused the records, we are of the view that the appellate court should have restored the appeal to its original file.

....2/-

Accordingly, the appeal is allowed, impugned orders are set aside and Title Appeal is restored to its original file, which shall be disposed of after giving opportunity of hearing to the parties.

The appellate court is directed to dispose of the appeal within a period of one year from the date of receipt/production of copy of this order.

.....J.
[B.N. AGRAWAL]

.....J.
[G.S. SINGHVI]

New Delhi,
August 21, 2009.



JUDGMENT