

SUPREME COURT OF INDIA

Jwala Prasad

Vs.

Ajodhya Prasad

C.A.No.3650 of 1982

(P. N. Bhagwati and E. S. Venkataramiah, JJ.)

10.01.1983

ORDER

We are of the view that having regard to the facts and circumstances of the present case and particularly in view of the fact that the order passed by the second Additional District Judge on 11th Apr., 1977, clearly shows that neither the appellant nor his advocate was present at the time when the revision application was called out for hearing and dismissed and that the application for restoration of the revision application made by the appellant was taken up by the second Addl. District Judge in his chamber on 24th Sept., 1977 and was dismissed without giving an opportunity to the appellant of being heard and though the appellant mentioned the matter before the second Additional District Judge on the same day, it was not restored. The appellant has been denied an opportunity of being heard. We, therefore, allow the appeal, set aside the order of the High Court dated 30th July, 1979 as also the orders of the second Addl. District Judge dated 24th Sept., 1977 and 11th April, 1977 and restore the revision application to its original file and direct that the revision application be heard and disposed of by the District Judge on merits in accordance with law. There will be no order as to costs of the appeal.

Appeal allowed.