

Ô(
SLP(C)No. 5432 OF 2000

ITEM No.26

Court No. 8

SECTION IVA
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.5432/2000

(From the judgement and order dated 03/12/1999 in WP 2404/99
of The HIGH COURT OF M.P AT JABALPUR)

RAJENDRA KUMAR SHRIVASTAVA AND ORS.

Petitioner (s)

VERSUS

BHARAT G.N.SAH.SAMITI MARYADIT & ORS.

Respondent (s)

(With Appln(s). for exemption from filing O.T. & C/delay in filing
counter affidavit and exemption from filing O.T. and with prayer
for interim relief)

Date : 16/03/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SYED SHAH MOHAMMED QUADRI
HON'BLE MR. JUSTICE S.N. PHUKAN

For Petitioner (s) Mr.PP Rao,Sr.Adv.
Mr.Prakash Shrivastava,Adv.
Ms. Pratibha Jain, Adv.

For Respondent (s) Mr.VA Bobde,Sr.Adv.
M/s Praveena Gautam,Satish Agarwal,Advs.
Mr. PB. Aggarwala, Adv.

Mr. AP. Dhamija, Adv.
Mr. Rishi Kesh,Adv.

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

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

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

.SP1

[Naresh Kumar]
Court Master

[Kanwal Singh]
Court Master

[Signed order is placed on the file.]

.UP 10 2; Fixed-pitch, smtst; -n -ml4 -PA4 -dFX-NORMAL -Fx -e -j; dumbp
L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....R

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2118 OF 2001@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC
[Arising out of SLP(C) 5432/2000]

Rajendra Kumar Shrivastava & Ors. ... Appellants

vs.

Bharat Grih Nirman Sahkari Samiti ... Respondents
Maryadit & Ors.

O R D E R@@
CCCCCCCC

.SP2

Heard the learned counsel for the parties.
Leave is granted.

The appellants were the parties to the order passed by the Board of Revenue on 11.9.1998. The Sahkari Samiti which is respondent no.1 herein was also a party to that order. It appears challenging the validity of the said order of the Board of Revenue, the first respondent filed writ petition No.5409/99. Even without issuing a notice to all the respondents therein, the appellants herein, the High Court dismissed the writ petition after hearing some other respondents therein by a speaking order. Thereafter the appellants herein filed writ petition no.2404/99 in the High Court of Judicature at Jabalpur, which came to be dismissed in limine by the High Court on December 3, 1999. It is that order which is assailed in this appeal.

The relevant portion of the said order reads as under:-

.SP1

"This Court in W.P.No.5409/99, preferred by the society, by order dated 17.2.99, has given the stamp of approval to the impugned order. Hence, in my considered opinion, no interference can be made in this writ petition. Accordingly writ is dismissed."

.SP2

2

From a perusal of the above extract of the order, it is clear that the appellants were nonsuited merely on the ground that the order impugned therein was upheld by the High Court when the Samiti unsuccessfully challenged the same. This, in our view, cannot be a correct approach. The appellants may have, as they contend, a different case which they were entitled to agitate before the High Court. The High Court should have heard the appellants on merits and disposed of the writ petition in accordance with law.

For these reasons, we set aside the order under challenge, restore the writ petition no.2404/99 to the file of the High Court of Chhatisgarh. The High Court will now hear the writ petition afresh and dispose it of in accordance with law. The appeal is thus allowed. There shall be no order as to costs.

.SP1

[SYED SHAH MOHAMMED QUADRI]

New Delhi,
March 16, 2001.@@
CCCCCCCCCCCCC

.....J.
[S.N. PHUKAN]