

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 1103 OF 1998

SUBHADRA RANI PAL CHOUDHARY

Appellant (s)

VERSUS

SHEIRLY WEIGAL NAIN &amp; ORS.

Respondent(s)

(With appln(s). for permission to file counter-affidavit and office report )

[FOR REHEARING]

Date: 13/10/2004 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE S.H. KAPADIA

For Appellant(s)Mr. Parag P. Tripathi, Sr. Adv.

Mr. D.N. Ray, Adv.

Mr. Jayant Mehta, Adv.

Mrs. Sumita Ray,Adv.

For Respondent(s)Ms. Kamini Jaiswal,Adv.

R-1Ms. Inkle Barooah, Adv.

Mr. Saqib,Adv.

RR 2-8Ms. Ruby Singh Ahuja, Adv. (not present)

UPON hearing counsel the Court made the following

## O R D E R

The above matter was extensively argued. Judgment was reserved on 7th of October, 2004. However, on going through the papers, we find that the entire arguments on both sides were founded on Order XL Rule 1 CPC, whereas, on perusing the lower court's record, we find that in the present case the Additional District Judge, Alipore had appointed the Joint Administrators-cum-Receiver under Section 247 of the Indian Succession Act, 1925 and, in the circumstances, the provisions of Order XL Rule 1 CPC may not be prima facie applicable. This doubt has been expressed by us today to both the learned advocates who have agreed to look into this aspect of the matter. However, the entire record of the lower court needs to be perused.

In the circumstances, this matter needs to be re-heard.

On a joint request made by the counsel for the parties, adjourned by six weeks, to enable them to inspect the original records as well as to address arguments.

Since this Bench is not available after the Dussehra vacation, we release it from part-heard.

(J.S. Rawat)

Court Master

(Kanwal Singh)

Court Master