

ITEM NO.109

COURT NO.6

SECTION XIIA

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(s). 4250 OF 2003

M/S. KAUSHIK COOP. HOUSING SOCIETY

Appellant (s)

VERSUS

ARIF NOORUL HASSAN & ORS.

Respondent(s)

(With appln.(s) for directions and permission to submit additional document(s) and permission to file additional documents and with office report)

WITH

Civil Appeal NO. 4251 of 2003

(With prayer for interim relief and office report)

Civil Appeal NO. 4252 of 2003

(With office report)

Civil Appeal NO. 3860 of 2003

(With appln.(s) for permission to place addl. documents on record)

(With office report)

Date: 16/11/2005 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE TARUN CHATTERJEE

For Appellant(s)

Mr.R.F.Nariman, Sr.Adv.
Mr.Dushyant A.Dave, Sr.Adv.
Mr.Bimrao Naik, Sr.Adv.
Mr.Ramkrikshna Reddy, Sr.Adv.
Mr.Mohan Rao, Adv.
Mr.S.Udaya Kumar Sagar, Adv.
Ms.Bina Madhavan, Adv.
Mr.A.Venayagam, Adv.

Mr. M.P. Shorawala, Adv.

Mr.L.Nageswar Rao, Adv.
Mr. G. Ramakrishna Prasad, Adv.
Mr.Suyodhan B., Adv.
Mohd.Wasay Khan, Adv.
Dr.K.P.Kyalasnath, Adv.
Mr.V.V.Ramana,Adv.

Ms. Sumita Hazarika, Adv.

For Respondent(s)

Mr.P.P.Rao, Sr.Adv.
Mr. Ejaz Maqbool,Adv.
Mr.Wajid Ali Kamil, Adv.
Mr.Vikash Singh, Adv.
Ms.Minakshi Nag, Adv.
Ms.Taruna Singh, Adv.

Mr.P.P.Rao, Sr.Adv.
Mr.D.Rama Krishna Reddy, Adv.
Mrs.D. Bharathi Reddy,Adv.
Mr.L.Sarveswar, Adv.
Mr.Mahmood Ali, Adv.

Mr.P.S.Narasimha, Adv.
Mr.Ananga Bhattacharya, Adv.
Mr.Aviyeet K.Lala, Adv.
For M/S. P.S.N. & Co.,Adv.

Mr.Sundara Varadhan, Sr.Adv.
Mr.Manoj Saxena, Adv.
Mr.Amit Meharia, Adv.
Mr. Mohanprasad Meharia,Adv.

Mr.T.N.Rao, Adv.

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

3

The appeals are disposed of in terms of the signed order with no order as to costs.

(Satish K. Yadav)

(Phoolan Wati Arora)

Court Master

Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.4250 OF 2003

M/S. KAUSHIK COOP. HOUSING SOCIETY . . . APPELLANT

VERSUS

ARIF NOORUL HASSAN & ORS.

.....

RESPONDENTS

WITH

C.A.NO.4251/2003, C.A.NO.4252/2003, C.A.NO.3860/2003

O R D E R

After having heard learned senior counsel appearing on behalf of the

4

parties, we find that the proper course would be to remit the matter to the High

Court for a fresh consideration, as it appears that apart from the issue of res

judicata on which the High Court has recorded its finding, other issues as to the

maintainability of the proceedings before the Land Grabbing Tribunal and

competence of the person making the application for initiation of proceedings were

involved. The High Court has not dealt with those issues. One of the factors which

seems to have weighed with the High Court is the pendency of two other matters ,

i.e., L.G.C. 15/96 and L.G.C. 29/92. L.G.C.15/96 was not pending when the

Tribunal disposed of the present dispute in L.G.C.46/89. Therefore, the order of the High Court is set aside. The High Court shall hear the matter afresh on all issues and dispose of the Writ Petition filed in accordance with law.

We make it clear that we have not expressed any opinion on the merits of the cases.

It is also made clear that our remitting the matter to the High Court shall not stand in the way of the disposal of L.G.C.No.15/96 and 29/92 by the concerned court.

The High Court is requested to dispose of the Writ Petition as early as practicable.

The appeals are disposed of accordingly with no order as to costs.

.....J.

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(ARIJIT PASAYAT)

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.....J.

(TARUN CHATTERJEE)

NOVEMBER 16, 2005.