

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.1121/2003

(From the judgement and order dated 06/01/2003 in CMP 365/2002
of The HIGH COURT OF JHARKHAND, RANCHI)

ANJU RANI GHOSH

Petitioner (s)

VERSUS

BAJARANG LAL SINGHANIA

Respondent (s)

(With Appln(s). for exemption from filing c/c of the impugned
Judgment and with prayer for interim relief and office report)

Date : 03/02/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Petitioner (s) Mr. L.N. Rao, Sr.Adv.
Mr. Sidharth Bhatnagar, Adv.
Ms. Ruby Singh Ahuja, Adv.

For Respondent (s) Mrs. Sumita Mukherjee,Adv.

UPON hearing counsel the Court made the following
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Heard learned counsel for the parties.
The special leave petition is disposed of in terms
of the signed order.

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Sarita (Shelly Sengupta) @@
AA
Court Master@@
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(Signed order is placed on the file)

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ANJU RANI GHOSH

...APPELLANT

VERSUS

BAJRANG LAL SINGHANIA

...RESPONDENT

O R D E R@@
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Heard learned counsel for the parties.

We are not in a position to find any fault with the impugned order. Learned Senior Counsel appearing on behalf of the petitioner made only one grievance, i.e., that the High Court by its order dated 3/10.12.2002 directed the executing court to execute the decree@@
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forthwith. The impugned order was passed on 6.1.2003.@@
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According to the learned Senior Counsel if the executing court is to give effect to the earlier order dated 3/10.12.2002, then the petitioner will be left with no remedy inasmuch as there will nothing to pursue the application pending before the executing court. In this situation, all that learned counsel wanted us to say is that the executing court may dispose of the application which is stated to be pending before the executing court without reference to the direction given by the executing court to execute the decree forthwith.

In opposition, learned counsel for the respondent strongly contended that the petitioner has played fraud on the court and his conduct is condemnable. It is promptly pointed out by the other side that the petitioner was not a party to the earlier order passed by this Court on 22.3.2002 and as such the question of playing fraud upon the court did not arise. Any way that is not the subject matter before us to decide at this stage. In our view, all that is required to be done is to direct the executing court to dispose of the application filed under Order 21 Rule 97 said to have been pending, on its merits as expeditiously as possible, at any rate within a period not later than three months from the date of receipt of the copy of this order uninfluenced by the direction "to execute the decree forthwith" given in the order dated 3/10.12.2002 by the High Court in C.R.No.417/2002.

The special leave petition is disposed of accordingly in the above terms.

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.....J.
(SHIVARAJ V. PATIL)

New Delhi,
February 3, 2003.

.....J.
(ARIJIT PASAYAT)