

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). 5310 OF 2010

M/S RAM PRAKASH SHARMA Appellant (s)

VERSUS

BAULAL BIRLA(D) BY LRS. Respondent(s)

(With office report)

Date: 16/11/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Appellant(s) Mr. M. N. Krishnamani, Sr. Adv.
Mr. Soumyajit Pani, Adv.
Mr. Amit Kumar, Adv.
Mr. V. M. Srivastava, Adv.
Mr. Madhavendra, Adv.
Mr. S. Balaji, Adv.

For Respondent(s) Mr. Vikramjit Banerjee, Adv.
Mr. Rishi Maheshwari, Adv.
Mrs. Shally Bhasin Maheshwari, Adv.

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

The appeal is allowed in terms of the
signed order.

Sr. P.A. (Deepak Joshi) Court Master (Indu Satija)

(Signed order is placed on the file)
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5310 OF 2010

M/S RAM PRAKASH SHARMA

.....Appellant (s)

Versus

BABULAL BIRLA (DEAD) BY LRS.

.....Respondent

(s)

O R D E R

This Appeal has been filed against the judgment and order dated 05.09.2008 in SA No. 285/2005 of the High Court of M.P. at Gwalior.

The appellant herein filed an eviction suit on the ground of bona fide need which was decreed by the trial Court and that judgment was upheld by the first appellate Court. Surprisingly, the High Court has reversed the finding of fact of the court below.

It is well settled that the High Court in second appeal under Section 100 CPC cannot reverse the finding of fact of the courts below. The judgment of the High Court is hence set aside and order of the First Appellate Court is restored. Appeal is allowed.

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However the respondent is granted six months' time to vacate the suit premises on furnishing usual undertaking within six weeks' in this court.

.....J.
[MARKANDEY KATJU]

.....J.
[GYAN SUDHA MISRA]

NEW DELHI;
NOVEMBER 16, 2010