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SLP(C)No. 8590 OF 2003  
ITEM No.32

Court No. 3

SECTION IX  
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.8590/2003

(From the judgement and order dated 23/09/2002 in WP 1616/01  
of The HIGH COURT OF BOMBAY AT NAGPUR)

ANJANABAI & ORS.

Petitioner (s)

VERSUS

SARVODAYA GRIHA NIRMAN COOP. SOCIETY&ORS

Respondent (s)

( With Appln(s). for permission to submit additional document(s) )  
( With prayer for interim relief)

Date : 08/07/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE Y.K. SABHARWAL  
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Petitioner (s) Mr. AB. Rohtagi, Sr.Adv.  
Mr. Ajay K. Agrawal.,Adv.

For Respondent (s) Mr. VA. Mohta, Sr.Adv.  
Mr. Manish Pitale, Adv.  
Mr. Chander Shekhar Ashri,Adv.

Mr. Mukesh K. Giri,Adv.

Mrs.K. Sarada Devi,Adv.

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

Leave granted.  
The appeal is disposed of.

(S. Thapar)  
PS to Registrar

(V.P. Tyagi)  
Court Master

The signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3508 OF 2004  
(Arising out of SLP(C)No. 8590 of 2003)

Anjanabai & Ors.

Appellant (s)

Versus

Sarvodaya Griha Nirman Coop. society & Ors.

Respondent (s)

O R D E R

Leave granted.

The Tehsildar, Nagpur (City Nagpur) by Order dated 3rd May, 2001 declared the sale deeds executed by non-applicants before him as void and directed that the land in question be restored in the name of the persons named in the Order being legal heirs of Durgaji Bhange. The said order is subject matter of challenge in Writ Petition No.1616 of 2001 pending in the High Court of Bombay at Nagpur Bench. The High Court on 18th May, 2001, granted to the writ petitioners a d-interim relief to the effect that pending disposal of the petition, the effect, execution and operation of the Orders dated 4th December, 2000 and 3rd May, 2001, passed by the Sub-Divisional Officer, Nagpur and Tehsildar, City Nagpur shall remain stayed. By impugned Order dated 23rd September, 2002, the High Court while issuing Rule in the writ petition has directed the parties to maintain status quo insofar as it relates to possession as on the date of the passing of the impugned order before it, namely, the Order dated 3rd May, 2001. The parties were further directed not to make any development on the land in question. This order has been challenged by the appellants who are respondents 5 to 7 before the High Court being some of the legal heirs of Durgaji Bhange. Their grievance is that the maintenance of status quo could be directed as on the date of the passing of the order which means it could be as on 23rd September, 2002 or in any case, as on 18th May, 2001 when ex-parte order referred to above was passed.

The order does not direct the appellants herein to redeliver the possession of the land to the Ist respondent who is a writ petitioner before the High Court, assuming as claimed the possession was taken by them on 5th May, 2001 in execution of the Order dated 3rd May, 2001. The Ist respondent, however, disputes that possession of the land was taken by the appellants on 5th May, 2001. According to the Ist respondent on 18th May, 2001 as also on 23rd September, 2002, the Ist respondent was in possession. The appellants, according to the Ist respondent have attempted to take possession by putting fencing wire after the order was passed by this Court .

We are not examining the question as to which party is in possession. If necessary, the High Court may go into this aspect and thereafter pass appropriate order as it may consider just fit and proper. Pending the examination of this aspect by the High Court, we direct that the parties would maintain status quo in regard to possession as on 18th May, 2001. If on examination of facts and circumstances and after hearing counsel for the parties the High Court comes to the conclusion that an order, on facts and law, deserves to be made directing re-delivery of possession by the appellants to respondent No.1, pending final decision of the writ petition, the present order would not come in the way of the High Court in making such an order. Further, neither any construction nor development would be made on the land nor it would be encumbered till further orders are passed by the High Court.

We may also note that the High Court was given liberty to finally hear and dispose of the writ petition in terms of the order passed by this court on 28th April, 2003. The High Court may consider early disposal of the writ petition. The impugned order dated 23rd September, 2002 stands modified to the above extent.

The appeal is disposed of accordingly.

.....J  
(Y.K. Sabharwal)

.....J  
(D.M. Dharmadhikari)

New Delhi,  
July 08, 2004

