

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(s).4269/2003

(From the judgement and order dated 29/11/2002 in CMWP No. 33234/2002 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

ZAHOOB BUX & ANR.

Petitioner(s)

VERSUS

FAREED BUX & ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T., stay/directions, prayer for interim relief and office report)

Date: 11/07/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE A.K. MATHUR

For Petitioner(s)

Mr. T.N. Singh, Adv.

Mr. V.K. Singh, Adv.

Mr. Shiam Narain Singh, Adv.

For Respondent(s)

Mr. Pramod Swarup, Adv.

Ms. Pareena Swarup, Adv.

Mr. Ameet Singh, Adv.

Mr. Bharat Ram, Adv.

Mr. Praveen Swarup, Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the parties.

Exemption allowed.

Leave granted.

The appeal is allowed.

No orders on I.A. No. 2.

[Alka Dudeja]
Prakash]

[Om

Court Master

Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3599 OF 2005

(Arising out of S.L.P.(C) No.4269 of 2003)

Zahoor Bux and Anr.

...Appellant(s)

Versus

Fareed Bux and Ors.

...Respondent(s)

O R D E R

Heard the learned counsel for the parties.

Leave granted.

The Deputy Director of Consolidation by its order dated 12th May

,
1983, disposed of Revision Nos. 1493 and 1494 in terms of the compromise

petition filed before him and recorded the compromise. Thereafter an application

was filed on 19th May, 2000 by appellant No. 1 for recall of the said order on the

ground that the compromise was forged and fabricated. The Deputy Director of

Consolidation by its order dated 5th June, 2002, dismissed this application

without holding any inquiry as to whether the compromise was genuine or not. If

any of the parties has any objection to the recording of compromise on the ground

that the same was not genuine inasmuch as it did not bear the signature of the

affected party, in that event, the Court, which recorded the compromise, is

required to hold an inquiry with regard to

....2/-

- 2 -

genuineness or otherwise of the compromise after giving opportunity to the

parties to lead oral and documentary evidence on the said question, which

procedure having not been adopted by the Deputy Director of Consolidation, we

are of the view that the impugned orders passed by the Deputy Director of

Consolidation as well as the High Court are fit to be set aside.

Accordingly, the appeal is allowed, the impugned orders passed by the

Deputy Director of Consolidation on 5th June, 2002, rejecting the petition filed by

the first appellant for recall of its order dated 12th May, 1983, on the ground that

the same was barred by limitation and the order of the High Court upholding the

same are set aside, the delay in filing the petition for recall is condoned and the

matter is remitted to the Deputy Director of Consolidation to consider the

aforsaid petition for recall on merits after giving opportunity to the parties to

lead oral and documentary evidence on the genuineness or otherwise of the

compromise.

.....J.

[B.N. AGRAWAL]

.....J.

[A.K. MATHUR]

New Delhi,

July 11, 2005.