

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No.3153/1999

(From the judgement and order dated 03/11/1998 in CR 908/98
of The HIGH COURT OF PATNA)

RAJENDRA PD. PAL

Petitioner (s)

VERSUS

MUNDRIKA PAL & ANR

Respondent (s)

(With prayer for interim relief)
(For Final Disposal)

Date : 24/11/2000 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SYED SHAH MOHAMMED QUADRI
HON'BLE MR. JUSTICE S.N. PHUKAN

For Petitioner (s) Mr.SB Sanyal,Sr.Adv.
M/s (Ms) Manita Verma,Rani Shankar,Adv.
Mr. Vishwajit Singh,Adv.

For Respondent (s) Mr.BL Yadav,Sr.Adv.
Mr. RP Goyal,Adv.
Mr. K.K. Gupta,Adv.

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

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.SP2

Leave is granted.

The appeal is dismissed in terms of the signed
order. No costs.

.SP1

[Naresh Kumar]
Court Master

[Om Prakash]
Court Master

[Signed order is placed on the file.]

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CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6821 OF 2000@@
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[Arising out of SLP(C) 3153/99]

Rajendra Prasad Pal ...Appellant

Vs.

Mundrika Pal & Anr. ...Respondents

O R D E R@@
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Leave is granted.

The appellant purchased undivided shares of some of the members of the family in the suit properties on different dates. While the matter was pending at the stage of execution of the final decree, the respondents filed an application under Section 4 of the Partition Act before the trial court. The appellant contested that petition on the ground of maintainability. The trial court as well as the appellate court held that the petition was maintainable. By order dated 3.11.1998 the High Court affirmed the view taken by the courts below that the application was maintainable and thus dismissed the revision filed by the appellant. Assailing the validity of that order of the High Court the appellant is in appeal before us.

In so far as the question of maintainability of the petition under Section 4 of the Partition Act is concerned, it is submitted by the learned counsel for the parties that the point is covered against the appellant by judgment of

this Court in Civil Appeal No.5942/2000 entitled Gautam@@
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Paul vs. Debi Rani Paul & Ors. [2000 (7) Scale 145].@@
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Mr.S.B. Sanyal, learned senior counsel for the appellant, however, submitted that the price to be paid to the appellant should be the market value as on the date of the purchase by the respondents or at any rate as on the date of the order of the appellate court. Inasmuch as this aspect was not dealt with by the High Court in the order under challenge, we do not express any opinion on that aspect.

The appeal is accordingly dismissed. No costs.

.SP1

.....J.
[SYED SHAH MOHAMMED QUADRI]

New Delhi,J.
November 24, 2000.@@ [S.N. PHUKAN]
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