

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4897 OF 2006

AMBIKA PRASAD BAKSHI

...APPELLANT(s)

VERSUS

PRABHU DAYAL MALI AND ORS.

...RESPONDENT(s)

O R D E R

Abatement is set aside.

Delay condoned in filing substitution application.

Application for substitution is allowed.

Application for deletion of the name of Respondent
No.12 is allowed.

We have heard learned counsel for the appellant.

In the earlier round of litigation, this Court passed a judgment and order dated 18.12.1990 in Civil Appeal No.2272 of 1972 followed by an order dated 14.09.1993 in a review petition filed in the aforesaid case.

In that earlier round of litigation, it was held by this Court that Babu Gokul Prasad had not become the occupancy tenant under the Madhya Pradesh Revenue Code of 1959 and, consequently, did not obtain Bhumiswamy rights.

Thereafter, a second round of litigation was initiated by the present appellant claiming under Babu Gokul Prasad through his widow Sardar Bahu on more or less same facts and

praying for the same relief by instituting a suit for perpetual injunction. The civil suit was dismissed by the trial court and by the first appellate court as well as by the High Court in Second Appeal.

Since the matter has already gone through an earlier round of litigation and there are findings by three courts on facts against the appellant, we are not inclined to interfere with the impugned judgment and order.

The appeal is accordingly dismissed.

It may be mentioned that the appellant was dispossessed some time in 2008.

Pending application, if any, is disposed of.

.....J.
(MADAN B. LOKUR)

.....J.
(PRAFULLA C. PANT)

NEW DELHI
JANUARY 11, 2017

ITEM NO.102

COURT NO.5

SECTION IV

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

Civil Appeal No(s).4897/2006

AMBIKA PRASAD BAKSHI

Appellant(s)

VERSUS

PRABHU DAYAL MALI (DEAD) & ORS.

Respondent(s)

(with appln. (s) for substitution and c/delay in filing substitution appln. and setting aside an abatement and deletion of the name of respondent and office report)

Date : 11/01/2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Appellant(s) Ms. Kritika Khurana, Adv.
 Mr. Manish Kr. Choudhary, Adv.
 Ms. Namita Choudhary, AOR

For Respondent(s) Mr. A. P. Mohanty, AOR

 Mrs. Santosh Singh, AOR

 Ms. Abha R. Sharma, AOR
 Mr. Dihrendra Singh Parmar, Adv.
 Ms. Sujeeta Srivastava, Adv.

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

Abatement is set aside.

Delay condoned in filing substitution application.

Application for substitution is allowed.

Application for deletion of the name of Respondent
No.12 is allowed.

The appeal is dismissed in terms of the signed order.

Pending application, if any, is disposed of.

(SANJAY KUMAR-I)

AR-CUM-PS

(Signed order is placed on the file)

(JASWINDER KAUR)

COURT MASTER