

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s). 3668 OF 2018
(Arising out of SLP (C) No.2892/2007)

RAM NARESH SINGH & ANR.

Petitioner(s)

VERSUS

JAI BHARAT MANI ACHARYA DIXIT (D) REP. THROUGH
Administrator General & ORS.

Respondent(s)

O R D E R

Heard learned counsel for the parties.

Leave granted.

Rani Rebati Devi died on 27th May, 1984. It was submitted by the appellants that the Will dated 13.5.1984 had been executed by the deceased Rani Rebati Devi in their favour. Whereas the Will dated 14.4.1984 is said to have been executed in favour of Jai Bharat Mani Acharya Dixit- Respondent no. 1, since deceased and is being represented through Administrator General. The factum and validity of the aforesaid two Wills is in dispute.

The facts indicate that a suit for partition bearing Suit No. 55/45 was filed in the year 1945, the same is pending consideration. The appellants had

applied for their impleadment on the strength of the aforesaid Will dated 13.5.1984 by moving an application under Order 1 Rule 10 of the Code of Civil Procedure, (CPC) on 24.8.1984; however the said application had been rejected and it is stated that the suit for partition stands dismissed for default of appearance and restoration application is stated to be pending.

Testamentary Suit No. 4 of 1985 was filed by respondent no.1 before the High Court of Judicature at Allahabd. 16 years later, in the Testamentary Suit pending before the High Court, an application for impleadment had been filed by the appellants; the application has been dismissed by the High Court by the impugned order.

It is also not in dispute that a probate proceedings bearing Probate Case No.72 of 2006 had been filed by the appellants, the said case is pending in the competent court at Devaria in State of U.P.

Since two rivals Wills have been set up and validity of them have been questioned by the natural heirs to ensure that lis comes to an end finally and there is no further protraction of the litigation. It is considered appropriate, in the interest of justice, so that all the matters are adjudicated once for all in

the presence of rival parties, we direct that the Probate Case No.72 of 2006, pending at Devaria, is also tried by the same court trying the Testamentary Suit Case no. 4 of 1985. The rival parties, so as the natural heirs, who also have their interest in denying the factum and validity of both the Wills, shall be impleaded and permitted to examine/cross examine the witnesses of each other in the cases.

Thus, the case at Devaria is transferred to the High Court of Allahabad where Testamentary suit No. 4 of 1985 is pending.

We request the High Court to decide both the cases together after allowing the parties to adduce the evidence and cross examine the witnesses and let decision be rendered together in both the matters. It is assured that rival parties setting up the Will as well as natural successor shall be allowed to be impleaded in the aforesaid both the matters and let both the cases be decided together. We make it clear that we have not commented on the factum or validity of any of the Wills nor we have commented on the merits of the case at all.

Accordingly we set aside the impugned order and request the High Court to decide both the cases

Testamentary suit and Probate case together as observed above, expeditiously preferably within 1½ years.

The appeal stands disposed of in terms of the aforesaid order.

.....J.
(ARUN MISHRA)

.....J.
(UDAY UMESH LALIT)

NEW DELHI;
APRIL 10, 2018

ITEM NO.1

COURT NO.10

SECTION XI

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 (C) No(s). 2892/2007

(Arising out of impugned final judgment and order dated 17-11-2006 in SA No. 1441/2006 passed by the High Court Of Judicature At Allahabad)

RAM NARESH SINGH & ANR.

Petitioner(s)

VERSUS

JAI BHARAT MANI ACHARYA DIXIT (D) REP. THROUGH
Administrator General & ORS.

Respondent(s)

Date : 10-04-2018 This petition was called on for hearing today.
CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Mr. Pramod Swarup, Adv.
 Ms. Pareena Swarup, Adv.
 Mr. Praveen Swarup, AOR
 Ms. Sushma Verma, Adv.

For Respondent(s) Mr. Prem Prakash, AOR
 Mr. Abhindra Maheshwari, Adv.

Mr. T. N. Singh, AOR
Mr. Vikas K. Singh, Adv.
Ms. Rajshree Singh, Adv.

Mr. Sunil Kumar Singh, Adv.
Dr. Kailash Chand, AOR

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

Leave granted.

The impugned order is set aside. The appeal stands
disposed of in terms of signed order.

Pending application, if any, also stand disposed of.

(NEELAM GULATI)
COURT MASTER (SH)

(JAGDISH CHANDER)
BRANCH OFFICER

(SIGNED ORDER IS PLACED ON THE FILE)

Note: Revised Order has been uploaded on 30.10.2018. Inadvertently, the draft order was uploaded earlier by the court master, which has been replaced by the correct/revised one that was passed. Now correct final order stands uploaded.

(NEELAM GULATI)
COURT MASTER (SH)

(JAGDISH CHANDER)
BRANCH OFFICER