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SLP(C)No. 4834 OF 2000

ITEM No.38

Court No. 4

SECTION XVII
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.4834/2000

(From the judgement and order dated 21/01/2000 in LPA 327/99
of The HIGH COURT OF PATNA AT RANCHI)

T.KARKETTA, EX-MD,CENT.COOPERATIVE BANK

Petitioner (s)

VERSUS

STATE OF BIHAR & ORS.

Respondent (s)

(With prayer for interim relief and Office Report)

Date : 13/08/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIK
HON'BLE MRS. JUSTICE RUMA PAL

For Petitioner (s) Mr. P.S. Mishra, Sr.Adv.
Mr. Ashok Kumar Tiwary, Adv.
Mr. Upendra Mishra, Adv.
Mr. Vishnu Sharma, Adv.
Mr. P.C. Roy, Adv.
Mr. Anil Kumar Jha,Adv.

For Respondent (s) Mr. B.B. Singh,Adv.
Mr. Uma Nath Singh,Adv.
Mr. Ashok Mathur,Adv.

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

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.SP2 Leave granted.
Appeal stands disposed of in terms of the signed
order.

.SP1

(J.S. Rawat)
Court Master

(D.D.Jindal)
Asstt. Registrar

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No. _____ of 2001@@
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(Arising out of SLP(C) No. 4834 of 2000)

T. Karketta, Ex-MD, Central Coop. Bank ...Appellant (s)

Versus

State of Bihar & Ors. ...Respondent(s)

O R D E R~@@
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Leave granted.

Heard Mr. P.S. Mishra for the appellant and Mr. Ashok Mathur for the respondent.

The appellant had approached the High Court against an order of the Deputy Commissioner, who directed forcible removal of the appellant on the assumption that the appellant is in occupation of the land belonging to the Civil Court. There is lot of dispute on the question whether the land belongs to the Civil Court or not, inasmuch as the Executive Building Engineer made a statement that the land does not belong to the Civil Court. The High Court refused to entertain the writ petition on the ground that the case involves disputed question of facts. Against the order of the Single Judge dismissing the writ petition, the appellant approached the Division Bench which also dismissed the same.

Mr. P.S. Mishra, learned senior counsel, contends that without entering into any question of fact, it is well2

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settled that an unauthorised occupant, even if, it is established that he is in unauthorised occupation, could be evicted only by following due process of law and could not have been directed to be evicted in the manner the Deputy Commissioner has ordered. He however submits that the appellant was not in unauthorised occupation. We find sufficient force in the aforesaid contention that eviction can be ordered following due process of law. The learned counsel for the respondents urged before us that the lease period of the appellant stood expired and as such, has no right to continue. But notwithstanding the same, the appellant cannot be evicted without following the due process of law. In that view of the matter we set aside the impugned judgment as well as the order of the Deputy Commissioner and direct that the appellant could be evicted in accordance of law. The appeal stands disposed of accordingly.

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.....J@@
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(G.B. PATTANAIK)@@
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New Delhi,

August 13, 2001

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( RUMA PAL )@@
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