

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1176 OF 2007

(Arising out of SLP(C) No.3343/2007)

RAJU AGARWAL & ANR.

.....APPELLANT(S)

VERSUS

SITA RAM

...RESPONDENT(S)

O R D E R

Leave granted.

Heard Mr.S.R.Singh, learned senior counsel for the appellants and Mr.Fakhruddin, learned senior counsel for the respondent No.1.

The suit filed by the respondent was dismissed by the trial court against which the appeal was filed by the respondent before the High Court of Allahabad as First Appeal No.431 of 2006. The High Court by order dt.18.01.2007 while admitting the said appeal ordered status quo. Aggrieved against the said order of status quo, the appellants have preferred the above appeal arising out of SLP(C) No.3343/2007 in this Court. It is not in dispute that the appellants were permitted to go ahead with the ongoing construction of shopping complex on the suit land at their own risk. In our opinion, the order of status quo is not the proper order that should be passed at this stage. We, therefore, set aside the

order of status quo and record the undertaking given by learned senior counsel for the appellants that in the event of respondent succeeding in the First Appeal, they will demolish the entire offending construction at their own cost without claiming any equity. Since the appeal was filed in the year 2006, we request the High Court to dispose of the First Appeal as expeditiously as possible and preferably within six months from today.

We also make it clear that the appellants are permitted to construct the building on the suit land but will not create any third party interest in the constructed premises.

The appeal stands disposed of accordingly.

No costs.

.....J.  
( Dr.AR.LAKSHMANAN )

.....J.  
( ALTAMAS KABIR )

NEW DELHI;  
MARCH 2, 2007.

ITEM NO.28

COURT NO.7

SECTION XI

RECORD OF PROCEEDINGS

3

Petition(s) for Special Leave to Appeal (Civil) No(s).3343/2007

(From the judgement and order dated 18/01/2007 in FA No. 431/2006 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

RAJU AGARWAL & ANR.

Petitioner(s)

VERSUS

SITA RAM

Respondent(s)

(With appln(s) for exemption from filing O.T. and permission to place addl. documents on record and with prayer for interim relief and office report)

Date: 02/03/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE Dr. JUSTICE AR. LAKSHMANAN

HON'BLE MR. JUSTICE ALTAMAS KABIR

For Petitioner(s)

Mr.S.R. Singh, Sr.Adv.

Mr. Bimal Roy Jad,Adv.

Mrs.Sunita Pandit, Adv.

For Respondent(s)

Mr.Fakhruddin, Sr.Adv.

Mr.Aftab Ali Khan, Adv.

Mr.Rashid Khan, Adv.

Mr.Abdul Karim, Adv.

Mr.Abdul Qadir, Adv.

Mr. Irshad Ahmad,Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

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

No costs.

( Satish K. Yadav )

Court Master

( Phoolan Wati Arora )

Court Master

( Signed order is placed on the file )