

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1839 OF 2006

S.M.HUSSAIN RASHEED (DEAD) BY LRS.

APPELLANTS

VERSUS

UNION OF INDIA & ORS.

RESPONDENTS

WITH

CIVIL APPEAL NO.1850 OF 2006

WITH

CIVIL APPEAL NO.1837 OF 2006

WITH

CIVIL APPEAL NO.1840 OF 2006

O R D E R

These appeals have been filed by the appellants against the common judgment and order dated 14<sup>th</sup> August, 2003 passed by the Division Bench of the High Court of Andhra Pradesh at Hyderabad in Writ Appeal No.936 of 1999, etc. By the impugned judgment and Order, the Division Bench held that the relief could not be granted to a person invoking the extraordinary jurisdiction of the High Court under Article 226 of the Constitution of India, who does not reveal the complete, true and correct facts and hence, set aside the order passed by the learned Single Judge in favour of the appellants.

The appellant S.M. Hussain Rasheed (now dead) through his Lrs. claimed ownership of the land Bungalow No.219, Gymkhana Road, Secunderabad Cantonment. He claimed to be the Power of Attorney Holder of the original claimant.

The appellant S.M. Hussain Rasheed (dead by Lrs.) asked for rectification of records in respect of Bunglow No. 219, Gymkhana Road, Secunderabad before the respondents. Pursuant to legal notice issued on his behalf, Government of India, Ministry of Defence, New Delhi, by its letter dated 18<sup>th</sup> April, 1994, rejected the request for altering the entry in respect of Bunglow No. 219 on the ground that the ownership of the land rests with the Government. The relevant portion of the letter dated 18<sup>th</sup> April, 1994 reads as follows:

"I am directed to refer to your letter dated 28.01.1994, addressed to the Secretary, Ministry of Defence, in respect of Rectification of records in respect of Bungalow No. 219, Gymkhana Road, Secunderabad, and to state that the representation has been examined, with reference to all available records pertaining to Bungalow No. 219, Gymkhana Road, Secunderabad. After a detailed examination, Government has come to the conclusion that the ownership of the land on which Bungalow No 219 is situated rests with the Government. It is, therefore, regretted that your request for altering the entry in respect of the said property in the General Land Register of Secunderabad as maintained by the Defence Estates Officer, Secunderabad, cannot be acceded to."

Being aggrieved, S.M. Hussain Rasheed-appellant filed Writ Petition No. 9381/1994 before the High Court of Andhra Pradesh at Hyderabad questioning the action of Union of India in holding that the ownership of the land, on which Bunglow No. 219 is situated,

rests with the Government. Prayer was made to declare the proceeding dated 18<sup>th</sup> April, 1994 as illegal and void after declaring the entries made in the General Land Register 1956 classifying the Bungalow No.219 as 'B' (3) land as unconstitutional, arbitrary and illegal. The main plea taken was that the respondents discriminated the appellants in the matter of entry as the owner of the Bungalow in their favour. Records have been corrected in favour of other similar persons. The learned Single Judge by judgment dated 26<sup>th</sup> April, 1999 allowed the Writ Petition in favour of the writ petitioners and ordered to correct the records in their favour.

The writ appeals, preferred by the Union of India against the aforesaid judgments, which have been allowed by common impugned judgment dated 14<sup>th</sup> August, 2003.

From the writ petition and the prayer made therein, we find that the writ petitioners claimed ownership in respect of the land on which Bungalow No. 219 is situated. The ownership was disputed by the respondents. On hearing the learned counsel for the parties, we find that the Division Bench rightly held that there is a disputed question of title and, therefore, the learned Single Judge was not correct in deciding such dispute in a petition under Article 226 of the Constitution of India.

At this stage, the learned counsel appearing on behalf of the appellants sought permission to withdraw the appeals to enable the appellants to move before the Civil Court of competent jurisdiction for declaration of title and other relief.

Mr. Vikas Singh, learned senior counsel appearing on behalf of the Union of India had no objection in withdrawing the appeals but he opposed the liberty sought by the appellant to file a suit.

Having heard the learned counsel, we allow the appellants to withdraw the appeals and grant them liberty to move before the Civil Court of competent jurisdiction for appropriate relief, including declaration of title. If such suit is filed by the appellants along with an application under Section 14 of the Limitation Act seeking extension of time on the ground that they have moved before the wrong forum, the Civil Court may consider the same, after notice to the parties and in accordance with law.

The appeals are dismissed as withdrawn. The applications for impleadment filed by the parties are rejected.

.....J.  
[SUDHANSU JYOTI MUKHOPADHAYA]

.....J.  
[PRAFULLA CHANDRA PANT]

NEW DELHI;  
AUGUST 28, 2014

ITEM NO.101

COURT NO.5

SECTION XIIA

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). 1839/2006

S.M.HUSSAIN RASHEED (DEAD) BY LRS.

Appellant(s)

VERSUS

UNION OF INDIA &ORS.

Respondent(s)

WITH

C.A. No. 1850/2006

(With appln.(s) for deletion of the name of petitioner and appln.  
(s) for impleadment and appln.(s) for permission to file  
additional documents and appln.(s) for exemption from filing O.T.  
and appln.(s) for impleadment and appln.(s) for permission and  
appln.(s) for impleadment and Office Report)

C.A. No. 1837/2006

(With appln.(s) for deletion of the name of deceased Lr. No.(i) of  
deceased sole Appellant and Office Report)

C.A. No. 1840/2006

(With Office Report)

Date : 28/08/2014 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

HON'BLE MR. JUSTICE PRAFULLA CHANDRA PANT

For Appellant(s) Mr. P. Badri Premenath, Adv.  
Mr. T. Narendra Reddy, Adv.  
Mr. Shakil Ahmed Syed, Adv.  
Mr. M.P. Dabas, Adv.

Mr. V. Giri, Sr. Adv.  
Ms. Promila, Adv.

For Respondent(s) Mr. P. Venkat Reddy, Adv.  
Mr. G. N. Reddy, Adv.

Mr. Vikas Singh, Sr. Adv.  
Mr. Amitesh Kumar, Adv.  
Ms. Deepika K., Adv.  
Mr. Gopal Singh, Adv.

Mr. S. Udaya Kumar Sagar, Adv.  
Ms. Bina Madhavan, Adv.  
M/s. Lawyer S. Knit & Co, Adv.

Mr. A. Mariarputtam, Adv.  
Ms. Madhurima Tatia, Adv.  
Mr. Rajeev Nanda, Adv.  
Mr. B.V. Balramdas, Adv.

Mrs. Anil Katiyar, Adv.

Ms. Sushma Suri, Adv.

Ms. Madhusmita Rao, Adv.

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

The applications for impleadment filed by the parties  
are rejected.

The application for deletion of the name of deceased  
Lr. No.(i) of deceased sole Appellant is allowed.

The appeals are dismissed as withdrawn in terms of  
the Signed Order.

(Rajni Mukhi)  
Sr. P.A.

(Usha Sharma)  
Court Master

(Signed Order is placed on the file)

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). 1839/2006

S.M.HUSSAIN RASHEED (DEAD) BY LRS.

Appellant(s)

VERSUS

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C.A. No. 1850/2006

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Mr. Rajeev Nanda, Adv.  
Mr. B.V. Balramdas, Adv.

Mrs. Anil Katiyar, Adv.

Ms. Sushma Suri, Adv.

Ms. Madhusmita Rao, Adv.

UPON hearing the counsel the Court made the following  
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The appeals are dismissed as withdrawn in terms of  
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Sr. P.A.

(Usha Sharma)  
Court Master

(Signed Order is placed on the file)