

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(s).6870/2006

(From the final judgement and order dated 09/01/2006 in RSA No.
3853/2005 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

OM PAL & ORS.

Petitioner(s)

VERSUS

BIRMATI & ORS.

Respondent(s)

(With prayer for interim relief)

Date: 28/04/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH
HON'BLE MR. JUSTICE ALTAMAS KABIR

For Petitioner(s)

Mr. R.C. Kaushik, Adv.
Mr. J.B. Mudgil, Adv.

For Respondent(s)

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

Counsel for the petitioner contends that in view of the provisions of Section 101 of the Evidence Act, the onus to prove that the earlier consent decree was not binding since it was obtained by fraud, was on the plaintiff herself who wanted that the decree be declared as not binding on her for the aforesaid reason. The Appellate Court wrongly shifted the onus on the defendants and held that the defendants could not prove that the decree which was passed earlier was a valid decree.

Issue notice.

In the meantime, there shall be stay of dispossession, if the petitioners are still in possession.

(SUKHBIR PAUL KAUR)
COURT MASTER

(VIJAY DHAWAN)
COURT MASTER