

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).15870/2007
(From the judgement and order dated 18/05/2006 in GA No. 3618/2005 of The
HIGH COURT OF CALCUTTA)

MADHUSUDAN MOHANLAL FUTNANI Petitioner(s)

VERSUS

VISHANJI DUNGARMAL FUTNANI & ORS. Respondent(s)
(With appln(s) for PERMISSION TO ACCEPT LENGTHY LIST OF DATES and
bringing on record additional documents)

Date: 01/10/2007 This Petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE S.B. SINHA
HON'BLE MR. JUSTICE H.S. BEDI

For Petitioner(s) Mr.Senthil Jagadeesan,Adv. for
M/S.Mahalakshmi Balaji & Co.

For Respondent(s) Mr.Soli J. Sorabjee,Sr.Adv.
Mr. Sameer Parekh,Adv.
Mr. E.R. Kumar, Adv.
Mr. Nitin Thukral, Adv. for
M/S P.H. Parekh & Co.

Mr. R.F. Nariman, Sr. Adv.
Mr. Shri Narain, Adv.
Mr. Sandeep Narain, Adv. for
M/S. S. Narain & Co.

UPON hearing counsel the Court made the following
ORDER

Leave granted.

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

The parties shall maintain status-quo till an appropriate order is
passed by the High Court.

[Meenu Sethi] [Radha R. Bhatia]
Court Master Court Master

Signed order is placed on the file
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.4617 /2007
(@ SLP(C) No. 15870/2007)

Madhusudhan Mohanlal Futnani ... Appellant

Versus

Vishanji Dungarmal Futnani & Ors....Respondents

ORDER

Leave granted.

Having heard the learned counsel appearing on
behalf of the parties, we are of the opinion that the Division Bench of

the High Court was not correct in passing the impugned judgment. Appellant filed an application for modification before the Division Bench, inter alia on the premise that the purported concession recorded by the Court had in fact not been made. It was, thus, the High Court alone who could determine the question. However, by reason of the impugned judgment, the Division Bench refused to do so opining that it had become functus officio. We are of the opinion that the impugned judgment cannot be sustained. It is set aside accordingly and the matter is remitted to the High Court for consideration thereof afresh.

We would request the High Court to consider the desirability of disposing of the matter as expeditiously as possible.

The parties shall maintain status quo till an appropriate order is passed by the High Court.

The appeal is disposed of with the aforementioned directions and observations.

.....J.

[S.B. SINHA]

.....J.

[H.S. BEDI]

New Delhi,
October 1, 2007