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SLP(C)No. 8606-8607 OF 2003
ITEM NO.205

COURT NO.4

SECTION XVII

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).8606-8607/2003
(From the judgement and order dated 10/02/2003 in CR No. 291/2002 & CR No.
401/2002 of HIGH COURT OF JHARKHAND AT RANCHI)

GOKUL CHANDRA DAS

Petitioner(s)

VERSUS

SUSANTA KUMAR DAS &ORS.

Respondent(s)

With appln(s) for c/delay in filing rejoinder and prayer for interim relief)
(For FD)

Date: 17/09/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE RUMA PAL
HON'BLE MR. JUSTICE ARUN KUMAR

For Petitioner(s)Mr.M.Qamaruddin,Adv.
Mrs M. Qamaruddin,Adv.
Mr.Ambar Qamaruddin,Adv.

For Respondent(s) Mr. Deba Prasad Mukherjee,Adv.
Ms.Nandini,Adv.

UPON hearing counsel the Court made the following

O R D E R

The short issue which arises in these special leave petitions is whether the petitioner, who claims to be the executor under a will, can be permitted to continue as an executor when he has specifically challenged the will as having been forged and fabricated. In our view, such an inconsistent plea cannot be taken. If there is no will according to the petitioner, there is no question of his being appointed as an executor thereunder. The petitioner cannot approbate and reprobate at the same time. Accordingly the SLPs are dismissed.

(SUMAN WADHWA)[MADHU SAXENA]
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