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C.A.No. 3451 OF 1998
ITEM No. 110
Court No. 2
SECTION XIIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 3451 OF 1998

THE DISTT. COLLECTOR & ORS.

.....
APPELLANT (S)

VERSUS

NANDKUMAR GUNTY

.....
RESPONDENT (S)
(With office report)

Date : 15/01/2004
This/These Appeal(s) was/were listed for hearing today.

CORAM :
HON'BLE MR. JUSTICE R.C. LAHOTI
HON'BLE MR. JUSTICE ASHOK BHAN
HON'BLE MR. JUSTICE B.P. SINGH

For Appellant (s) Ms. K. Amareswari, Sr. Adv.
Mr. Guntur Prabhakar, Adv.

For Respondent (s)

UPON hearing counsel, the Court made the following
O R D E R
The appeal is dismissed in terms of the signed order.

KALYANI
(RADHA R. BHATIA)
COURT MASTER

(SIGNED ORDER IS PLACED ON THE FILE.)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3451 OF 1998

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APPELLANT (S)

VERSUS

NAND KUMAR GUNTY

.....

RESPONDENT (S)

O R D E R

The respondent moved an application before the Collector seeking no objection certificate for raising construction of a residential house in survey No. 106/2 (Old) 166(new no.) extent 1613 sq. m., alleging that the piece of land falls in T.S. No. 6, Block 'C' Ward No. 11, Shaikhpet Village. Vide order dated 28th April, 1987, the Collector rejected the application forming an opinion that the land in respect of which No Objection Certificate was sought for, was a government land. It seems that while enquiring into the application the Collector had got the spot inspected and it was reported to him that someone was in possession of the land and a boundary wall was also constructed over the piece of land. Keeping in view this fact the Collector by his memo communicated to the applicant the rejection of his prayer for NOC at the same time endorsed a copy of the memo to the Mandal Revenue Officer directing him to demolish the boundary wall and recover possession over the property by evicting anyone in possession. The above-said order was put in issue by the respondent by filing a writ petition in the High Court. In the High Court, one of the pleas raised by the respondent was that although his application dated 19th December, 1987, he had described the disputed property as falling in Survey No. 106/2 but that was a mistake and in fact the property was in Survey No. 129/106/2. The High Court noticed this plea. It appears that nothing had prevented the respondent from moving a fresh application for No Objection Certificate by correctly describing the Survey No. and he need not have gone to the High Court. But the Division Bench of the High Court noticed demolition and recovery of possession having been ordered by the Collector without putting the person in possession to notice. The Division Bench in the interest of justice set aside the memo dated 28th April, 1987 and observed that the parties shall not be precluded from taking action in regard to the land in accordance with law but only after giving notice to the owner of the land who was in possession of Survey No. 106/2 equivalent to new 166. We do not find any fault with the view taken by the High Court. So far as Survey No. 129/106/2 is concerned, the respondent is at liberty to move an application afresh seeking issuance of No Objection Certificate and satisfying the authorities of his entitlement to such NOC. At the same time, the authorities may proceed to recover possession over any government land if found to have been unauthorisedly encroached upon by any one after issuing notice and taking steps in accordance with law. Subject to the above-said clarification, the appeal is dismissed.

.....J
(R.C. LAHOTI)

.....J
(ASHOK BHAN)

.....J
(B.P. SINGH)

NEW DELHI;
JANUARY 15, 2004.