

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 ) . 64 5 4 OF 20 0 1

BAI J N A T H P A N D E Y

Appell a n t ( s )

VER S U S

VI S H W A N A T H P A N D E Y & O R S .

Respo n d e n t ( s )

(Wit h appl n ( s ) for inju n c t i o n and deleti n g the name of respo n d e n t )

Date: 23/07/2 0 0 9

This Appeal wa s called on for heari n g toda y.

COR AM :

HON'BLE MR. J U S T I C E D A L V E E R B H A N D A R I

HON'BLE DR. J U S T I C E M U K U N D A K A M S H A R M A

Fo r Appell a n t ( s )

Dr. Madan Sh a r m a , Adv. ( N P )

Mr. U.K. Sh a n d i l y a , adv.( N P )

Mr. Hari Sh a n k a r S a r a n , Adv.( N P )

Mr. R.D. Upad h y a y , Adv .

Mr. Vij a y Ku m a r P a n d i t a , Adv .

Ms. As h a Upad h y a y , Adv .

Fo r Respo n d e n t ( s )

Mr. P.S. Mishr a , Sr. Adv .

Mr. Upend r a Mish r a , Adv .

Mr. D.K. Pand e y , Adv .

Mr. S. S. Band yo p a d h y a y , Adv .

Mr. Ravi Chan d r a Pra k a s h , adv.

Mr. Mohan Pan de y , Adv .

UPO N heari n g couns el the Cour t made the follo w i n g  
O R D E R

The appeal is dispos ed of in ter m s of the signed order.

( S u k h b i r Paul Kau r )  
Cou r t Master

(Neer u Bala Vij )  
Cou r t Master

(Sig n ed Order is placed on the file)  
IN TH E S U P R E M E C O U R T O F I N D I A  
CIVIL APPEL L A T E J U R I S D I C T I O N

CIVIL APPEAL NO.6 4 5 4 OF 20 0 1

BAI J N A T H P A N D E Y

Appell a n t ( s )

Ver s u s

VI S H W A N A T H P A N D E Y & O R S .

Respo n d e n t ( s )

O R D E R

We have heard learned counsel for the parties.

This appeal by special leave is directed against the impugned judgment of the Single Judge of the High Court of Judicature at Allahabad dated 12.5.2000 in Second Appeal No. 3176 of 1984 whereby the High Court dismissed the appeal of the appellant.

In the facts and circumstances of the case, the controversy between the parties can be resolved only when a proper suit for partition is filed between the parties before the Trial Court. We request the Trial Court to dispose of the suit for partition (as and when filed) as expeditiously as possible and in any event, within one year from the date of filing of the suit. The Trial Court shall decide the suit without

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being influenced by the findings of the first Appellate Court and the High Court regarding severance of possession.

The impugned judgment of the High Court is set aside as far as the findings regarding severance of possession given by the first Appellate Court and affirmed by the High Court.

The parties are directed to maintain *in statu quo* as of today until the suit of partition is decided by the Trial Court.

I.A. No. 1 - Application for injunction is disposed of in terms of the above order.

I.A. No. 2 - Application for deleting the name of respondent No.4/5 - Vinod Kumar from the array of parties is allowed.

We accordingly dispose of this appeal leaving the parties to bear their own costs.

..... J.  
(D A L V E E R B H A N D A R I )

..... J .  
(DR. MUKU N D A K A M SH A RM A )

Ne w Delhi,  
J u l y 23, 20 0 9