

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

IA 3/2012 in Petition(s) for Special Leave to Appeal (Civil)
No(s).11748/2011

(From the judgement and order dated 24/02/2011 in CWJC
No.19807/2010 of The HIGH COURT OF PATNA)

DR. ZAHIR UL ISLAM AND ORS. Petitioner(s)

VERSUS

MD. FAIYAZ ALAM AND ORS. Respondent(s)
(With appln(s) for stay, deletion of name of R.No.2 and office
report)

Date: 08/05/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE P. SATHASIVAM
HON'BLE MR. JUSTICE J. CHELAMESWAR

For Petitioner(s) Mr.Gaurav Agrawal,Adv.

For Respondent(s) Mr. Anil K. Jha,Adv.
Mrs.Chhaya Kumari,Adv.
Mr. S.K. Divakar,Adv.
Ms. Alka Jha,Adv.

Mr. Gopal Singh ,Adv
Mr. Chandan Kumar,Adv.

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

Heard both sides.
I.A. for deletion of R.No.2 is allowed.
Leave granted.
The appeal is allowed in terms of the signed

order.

[Madhu Bala] [Savita Sainani]
Sr.PA Court Master

(Signed order is placed on the file)

ITEM NO.3 COURT NO.4 SECTION XVI

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[Savita Sainani]

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Court Master

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4323 OF 2012

(@ SPECIAL LEAVE PETITION @ NO. 11748 OF 2011)

DR. ZAHIR UL ISLAM AND ORS.

....APPELLANT(S)

VERSUS

MD.FAIYAZ ALAM AND ORS.

....RESPONDENT(S)

WITH

INTERLOCUTORY APPLICATION NO. 3 OF 2012

O R D E R

Heard both sides.

Leave granted.

Against the rejection of the petition filed under Order
6 Rule 17 read with under Section 151 CPC, the appellants
have filed the present appeal.

The Amendment sought for is as follows:

That a fresh relief be added in para.

1. That the Court be pleased to hold and declare that the Judgment and decree in T.S. No.32 of 1992 from the Court of Sub Judge-III Bhagalpur is based and fraudulent facts and is wrong and the same decree is not binding upon the plaintiffs and other local people of the locality.
2. In replies (a) and Schedule-A the correct plot No.5171 be mentioned in place of 7151.
3. In para (II) in the 8 line plot No. 5093 be mentioned in place of 5063.

...2/-

While hearing the matter, learned counsel for the appellants informs this Court that on instruction, the appellants are not pressing Clause 1 of the relief sought for. The above statement is hereby recorded.

The appellants are seeking amendment in Clauses 2 and 3 and in that they seek in clause 2 i.e. the correct plot No.5171 be mentioned in place of 7151. In the same way in Clause 3, the appellants seek that the plot No. 5093 be mentioned in place of 5063.

Though learned counsel appearing on behalf of Respondent No.1 raised an objection, it is not in dispute that the mistake in referring the plot No. occurred in the relief portion and in view of the reasons stated in the application filed in support of the amendment, we feel that ends of justice would be met by allowing the amendment insofar as clauses 2 and 3 are concerned. By accepting the above statement, we also feel that there will not be any confusion between different plots existed and we also satisfy that the nature of the suit will not change by changing the plot No. because the dispute between the parties remains plot No. 5171. In view of the same, we set aside the impugned order of the High Court.

The appeal is allowed accordingly.

In view of the order passed in civil appeal, no orders are required in I.A.

.....J.
[P. SATHASIVAM]

NEW DELHI
8TH MAY, 2012

.....J.
[J. CHELAMESWAR]