

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.197 of 2016
(@ Special Leave to Appeal (C) No. 35395 of 2011)

LALA RAM

Appellant(s)

VERSUS

BOARD OF REVENUE & ORS.

Respondent(s)

WITH

CONMT.PET. (C) No. 387/2012 In SLP(C) No. 35395/2011

WITH

CONMT.PET. (C) No. 209/2013 In SLP(C) No. 35395/2011

O R D E R

Delay in filing substitution application is condoned.

Application for substitution is allowed.

Leave granted.

We have heard learned counsel for the parties.

The only question in this appeal is whether the application for impleadment filed by the appellant (Lala Ram), who claims to be a *bona fide* purchaser of the property in question, ought to have been allowed by the Board of Revenue.

According to the appellant, there was a dispute about the land in question between Shiv Rani and Balla. The proceedings initiated by Shiv Rani were dismissed. However, during the pendency of the second appeal (No. 103 of 1987-88) before the Board of Revenue, Allahabad, the parties entered into a compromise. It was mentioned in the compromise application that Balla had sold the property in question to the appellant. On this basis, the second appeal was

disposed of by the Board of Revenue. The grievance of the appellant is that he had moved an application for impleadment before the Board of Revenue which was not considered when the compromise application was taken up and therefore his rights were extinguished by the order passed by the Board of Revenue.

Feeling aggrieved, the appellant went to the Allahabad High Court by way of a writ petition (No. 17361 of 1993) under Article 226 of the Constitution of India. The High Court vide order dated 02.08.2001 permitted the appellant to once again approach the Board of Revenue. The appellant filed a fresh application for impleadment (No. 125 of 2001) before the Board of Revenue but that was also rejected. The appellant once again approached the Allahabad High Court by another writ petition (No. 16179/2002) in which the High Court permitted the appellant to file yet another application before the Board of Revenue. That application for impleadment was also rejected by the Board of Revenue. Under the circumstances, the appellant again approached the Allahabad High Court. The High Court vide order dated 26.09.2011 (impugned) did not think it proper to interfere with the order passed by the Board of Revenue and dismissed the writ petition.

Under these circumstances, the appellant is before us in appeal.

Without commenting on the merits or otherwise on the application for impleadment filed by the appellant before the Board of Revenue, we are of the opinion that since the appellant claims to be a *bona fide* purchaser he should be heard on the merits of the case by the Board of Revenue so that his rights, if any, can be

vindicated.

Learned counsel for Shiv Rani contends that Balla played fraud not only upon Shiv Rani but also played fraud on the appellant. These arguments could have been advanced by Shiv Rani before the Board of Revenue, had such an opportunity been granted.

Under the circumstances, we think it proper that the entire matter be remanded to the Board of Revenue for reconsideration on merits. Rather than sending the application for impleadment back to the Board of Revenue, we allow the application for impleadment and direct the Board of Revenue to consider the matter afresh after giving an opportunity of being heard to the appellant as well as Shiv Rani and LRs. of Balla (who have been served but are not present before us) in the matter.

Learned counsel for Shiv Rani says that she is in possession of the property in question. This is disputed by learned counsel for the appellant. We make no observation in this regard.

The civil appeal and contempt petitions are disposed of in view of the above. No costs.

.....J.
[Madan B. Lokur]

.....J.
[R.K. Agrawal]

NEW DELHI
JANUARY 12, 2016

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

Petition(s) for Special Leave to Appeal (C) No(s). 35395/2011

(Arising out of impugned final judgment and order dated 26/09/2011 in CMWP No. 38902/2002 passed by the High Court of Judicature at Allahabad)

LALA RAM

Petitioner(s)

VERSUS

BOARD OF REVENUE & ORS.

Respondent(s)

(With appln. (s) for c/delay and substitution of LRs of the deceased respondent and interim relief and office report)

WITH

CONMT.PET.(C) No. 387/2012 In SLP(C) No. 35395/2011
(With Office Report)

CONMT.PET.(C) No. 209/2013 In SLP(C) No. 35395/2011
(With Office Report)

Date : 12/01/2016 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE R.K. AGRAWAL

For Parties

Mr. Anis Ahmed Khan, Adv.
Mr. Shoaib Ahmad Khan, Adv.
Mr. Mohd. Naved Mian, Adv.

Mr. Pradeep Misra, Adv.
Mr. T. Mahipal, Adv.
Mr. Suraj Singh, Adv.

Dr. Kailash Chand, Adv.

Mr. Vinay Garg, Adv.
Mr. Upender Mishra, Adv.
Mr. Udit Singh, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Delay in filing substitution application is condoned.

Application for substitution is allowed.

Leave granted.

We have heard learned counsel for the parties.

The civil appeal and contempt petitions are disposed of in terms of the signed order.

(Meenakshi Kohli)
Court Master

(Jaswinder Kaur)
Court Master

[Signed order is placed on the file]