

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).3372/2012

(From the judgement and order dated 12/08/2010 in CRA No.51/2010  
of The HIGH COURT OF BOMBAY AT NAGPUR)

VITTHAL MAHADEORAO BHUJADE Petitioner(s)

VERSUS

KESARBAI RAMESH PAIDHAN Respondent(s)

(With office report )

Date: 06/08/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE V. GOPALA GOWDA

For Petitioner(s) Mr. Kishor Lambat, Adv.  
Mr. Rabin Majumder, AOR.

For Respondent(s) Mr.S.Mahendran, AOR.

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

This petition is directed against order dated 12.08.2010 passed by the learned Single Judge of the Bombay High Court Nagpur Bench whereby he allowed the revision filed by the respondent and set aside the decree passed by the trial Court under Section 6 of the Specific Relief Act, 1963.

Shri Kishor Lambat, learned counsel for the petitioner relied upon the judgment of this Court in Sanjay Kumar Pandey Vs. Gulbahar Singh Sheikh & Ors.[2004(4)SCC 264] and argued that the revision filed by the respondent was not maintainable and the High Court committed a jurisdictional error by entertaining and allowing the same.

We have considered the submission of the learned counsel but have not felt impressed. Section 6 of the Specific Relief Act, 1963 reads thus:

"6. Suit by persons dispossessed of immovable property.

(1) If any person is dispossessed without his consent of immovable property otherwise than in due course of law, he or any person claiming through him may, by suit, recover possession thereof, notwithstanding any other title that may be set up in such suit.

(2) No suit under this section shall be brought-

(a) after the expiry of six months from the date of dispossession; or

(b) against the Government.

(3) No appeal shall lie from any order or decree passed in any suit instituted under this section, nor shall any review of any such order or decree be allowed.

(4) Nothing in this section shall bar any person from suing to establish his title to such property and to recover possession thereof."

A perusal of the impugned order shows that the learned Single Judge specifically referred to paragraph 4 of the judgment relied upon by Shri Lambat and held that the case before him was fit for exercise of power of the High Court under Section 115 CPC because the entries made in revenue record does not support the petitioner's plea that he was dispossessed from the suit property six months prior to the institution of the suit. Learned counsel could not draw our attention to any document from which it can be inferred that the petitioner had been dispossessed from the suit property six months before filing of the suit. Therefore, the finding recorded by the learned Single Judge that the suit filed by the petitioner was not maintainable cannot be faulted.

The special leave petition is accordingly dismissed.

|(Sheetal Dhingra)

|(Usha Sharma)

|AR-cum-PS

| |Court Master

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