

ITEM NO.44

COURT NO.3

SECTION XV

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).10229/2006

(From the judgement and order dated 03/05/2006 in DBCSA No. 1144/2005
&SBCWP No. 5845/2004 & DBCMS No. 7627/2005 of The HIGH COURT OF
RAJASTHAN AT JAIPUR)

GIRDHARI RAM

Petitioner(s)

VERSUS

JANKI DEVI & ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T., permission to file rejoinder affidavit and
prayer for interim relief and office report)

Date: 04/05/2007 This Petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE H.K. SEMA

HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA

For Petitioner(s)

Mr. M.R. Calla, Sr. Adv.

Mr. Mukul Kumar, Adv.

Ms. Charu Mathur, Adv.

Mr. Nishant Bora, Adv.

Mr. P.D. Sharma, Adv.

For Respondent(s)

Mr. S.K. Keshote, Sr. Adv.

Mr. Bhupender Yadav, Adv.

Mr. R.C. Kohli, Adv.

Mr. Aruneshwar Gupta ,Adv

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

We clarify Appeal is disposed of in terms of the signed order that this order should not come in the way in a pending review application said to have been filed for review of the trial Court order.

(Ravi P. Verma)

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Court Master

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[Signed order is placed on the file]

2

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2342 OF 2007

[Arising out of SLP(C) NO. 10229/2006]

GIRDHARI RAM

APPELLANT(S)

Versus

JANKI DEVI & ORS.

RESPONDENT(S)

O R D E R

Leave granted.

This appeal is directed against the interim order dated 03/05/2006 confirmed by 01/06/2006 passed by the Division Bench in DBCSA(W) No.1144/2005 arising out of the stay application No.7627/2005. The dispute relates to mining. Civil Suit No.9/2004 is also pending for disposal. It appears a consensus order passed by the Civil Court was not brought to the notice of the High Court. The consent terms order passed by the Addl. District Judge, Parbatsar on 08/08/2005 runs as under:-

"On the basis of the consent of both the parties the order is passed that none of the parties would transfer the movable & immovable property, two rooms and one kitchen of the house constructed in Khasra No. 420, Area 10 Biswa located at Bidiyad and the agricultural land comprising of Khasra

3

No.78/623/401/11 mentioned in the Will dated 19.12.99 executed by late Boduram Ubana to any other person till the final disposal of the original suit. The order is also passed that the Respondent No.1 would maintain the complete accounts of all the stones mining out the Mine No.276 of Kola Dungari Range situated

at Village Bidiyad and in case the suit is decided against the Respondent No.1 then the Respondent No.1 would pay the amount of the income earned from this Mine during this period to the petitioners. On having decided the file be annexed with the file of the original suit."

Once an order is passed on consent of the parties, the High Court was not justified in passing a different order. Accordingly, the interim order dated 03/05/2006 and 01/06/2006 passed by the High Court are set aside. The High Court is requested to dispose of the appeal as expeditiously as possible. Till the appeal is disposed of, the order on consent terms passed by the trial Court shall operate.

Appeal is disposed of in the above terms. We clarify that this order should not come in the way in a pending review application said to have been filed for review of the trial Court order.

.....J.
(H.K. SEMA)

New Delhi;
May 04, 2007.

.....J.
(LOKESHWAR SINGH PANTA)