

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 6323 OF 2001

FATIMA BI Appellant (s)

VERSUS

MISHRIBAI & ORS. Respondent(s)

Date: 22/07/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AFTAB ALAM
HON'BLE MR. JUSTICE R.M. LODHA

For Appellant(s) Mr. Anis Ahmed Khan,Adv.

For Respondent(s) Mr.S.B.Sanyal, Sr.Adv.
Mr.A.Srivastava,Adv.
Mr. P.P. Singh ,Adv

Mr. Chander Shekhar Ashri,Adv.

Mr. S.S. Khanduja ,Adv
RR-Ex-Parte

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

The appeal is dismissed with no order as to costs in terms
of the signed order.

(KUSUM SYAL)
SR.PA

(R.K. SHARMA)
COURT MASTER

(Signed Order is placed on the file)
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 6323 OF 2001

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VERSUS

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O R D E R

Heard Mr. Anis Ahmed Khan counsel appearing for the

appellant and Mr. S.B. Sanyal, senior counsel appearing on behalf of the respondent.

The present appeal arises from the eviction proceedings instituted by the appellant. The trial court accepted the case of the appellant and granted her the decree of eviction. In appeal preferred by the respondents the appellate court affirmed the judgment and decree passed by the trial court. In second appeal, however, the High Court, reversed the judgments and decrees passed by the courts below and dismissed the appellant's suit.

Mr. Anis Ahmad strenuously submitted that in a second appeal the High Court was gravely in error in interfering with the concurrent findings recorded by the two courts below.

We are unable to accept the submission. On record before us there is a copy of the Extract from the General Land Register (proposed amendment Jabalpur Cantonment); in addition, there are Notifications dated March 31, 1950 and March 25, 1955 issued under sub-section 3 of Section 7 of the Administration of Evacuee Property (Central) Act, 1950. The Extract of the General Land Register and the two Notifications, show that the suit property, to the extent of two third undivided share, was declared as evacuee property and consequently vested in the State. The suit for eviction filed by the appellant was, therefore, not maintainable. The High Court was, thus, fully justified in reversing the decrees of eviction granted by the trial court and affirmed by the appellate court and dismissing the appellant's suit for eviction.

We are in agreement with the view taken by the High Court. We find no merit in the appeal. It is dismissed.

In the facts and circumstances of the case, however, we are passing no order as to costs.

.....J
(AFTAB ALAM)

.....J
(R.M. LODHA)

NEW DELHI
JULY 22, 2010