

TO
ITEM NO.110

COURT NO.8

SECTION XIIA

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). 8472 OF 2003

GUSANI STEELS (PVT.) LTD. & ORS. Appellant (s)

VERSUS

SHANTHA BAI & ORS. Respondent(s)

(With office report)

Date: 13/12/2012 This Appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA

For Appellant(s) Mr. Manu Shanker Mishra,Adv.
Mr. Anshuman Upadhyay,Adv.

For Respondent(s) Mrs. Anjani Aiyagari,Adv.
Ms. C.K. Sucharita,Adv
Mr. Y. Raja Gopala Rao,Adv
Mr. Vismai Rao,Adv.
Mr. Hitendra Nath Rath,Adv.
Mr. Sridhar Potaraju,Adv
Mr. G.N.Reddy,Adv.

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

The appeal is allowed in terms of the signed order.

(O.P. Sharma)
Court Master

(M.S. Negi)
Court Master
(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.8472 OF 2003

GUSANI STEELS (PVT.) LTD. & ORS.

Appellants

VERSUS

SHANTHA BAI & ORS.

Respondents

O R D E R

This appeal is directed against the common judgment of the High Court dated 29.3.2000 wherein Writ Petition No.6065/1992 was also dealt with alongwith other writ petitions and resultantly, the writ petition No.6065/1992 was dismissed by the High Court.

The appellants were respondents 16,3,15, 18 and 38 before the Special Court constituted under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 (hereinafter referred to as "the Act"). The appellants were declared as land grabbers and an order of eviction was granted in favour of the contesting private respondents.

Aggrieved by the order of the Special Court, the appellants went before the High Court challenging the order of the Tribunal. The challenge was to Sections 7 and 8 of the Act apart from assailing the decision of the Special Court on merits. While dealing with the vires of Sections 7 and 8 of the Act, the Division Bench of the High Court noted that those very provision which were the subject matter of challenge, was decided by this Court in State of A.P. VS. Mohanlal 1998 (5) SCC 468. The counsel for the appellants admitted that the said challenge which came to be dealt with by the Division Bench was covered by the decision of this Court and consequently the Division Bench held that there was no scope to entertain the challenge. Hence this appeal.

As regards the merit of the order of the Special Court was concerned, it was common ground that as against the order of the Special Court there is no further appeal before any other forum and the only remedy available to the appellants was to challenge the same before the High Court by filing a writ petition under Article 226 of the Constitution of India.

On a perusal of the impugned order, we do not find any discussion at all as regards the merits of the case namely, the issue dealt with by the Special Court and as to its correctness or validity. At pages 50 to 56 of the impugned judgment, we find that the various grounds raised by the Advocate for the appellants as against the correctness of the Special Court order, the Division Bench rejected those challenges on the simple ground that those challenges cannot be entertained while exercising its discretionary power under Article 226 of the Constitution. In fact, there is absolutely no consideration at all as regards the merits viz the reasoning which weighed with the Special Court while passing the order of eviction. Be that as it may. We also find that the impleaded respondents herein were not added as parties before the High Court and those respondents claim to be the protected tenants and that their rights stated to have already been dealt with in their favour by the Joint Collector, Rangareddy District vide proceedings dated 29.6.2004. In the circumstances, while examining the correctness of the order of the Tribunal as regards the merits of the order of eviction passed against the appellants herein, in the event of any order ultimately being passed, the impleaded respondents being necessary parties should have been impleaded before the High Court and the High Court ought to have heard them, in as much as the ultimate decision will have a bearing on their rights as protected tenants. Having regard to our above conclusion the order impugned cannot be sustained. We set aside the judgment impugned and remit the matter back to the High Court for disposing of the case on merit after giving due opportunities to the impleaded respondents as well.

Having regard to the fact that the issue relates to the year 1988, we request the High Court to dispose of the matter expeditiously preferably within a period of six months from the date of production of the copy of

this order.

The appeal is allowed accordingly.

.....J.
[DR. B.S. CHAUHAN]

NEW DELHI
DECEMBER 13, 2012

.....J.
[FAKKIR MOHAMED IBRAHIM KALIFULLA]