

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 10447 OF 2013  
(@ SPECIAL LEAVE PETITION(C)NO.20514 OF 2012)

BAIJO & ANR.

APPELLANTS

VERSUS

GULABSINGH (D) THRU LRS. & ORS.

RESPONDENTS

WITH

CIVIL APPEAL NO. 10448 OF 2013  
(@ SPECIAL LEAVE PETITION(C)NO.18404 OF 2012)

O R D E R

1. Delay condoned in filing the application for substitution.
2. Application for substitution is allowed.
3. Delay condoned in filing the Special Leave Petition.
4. Leave granted.
5. These appeals are directed against the judgments and orders passed by the High Court of Madhya Pradesh at Jabalpur (Gwalior Bench) in Second Appeal No.821 of 2005, dated 02.09.2011 and in Review Petition No.260 of 2011, dated 17.01.2012. By the impugned judgments and orders, in second appeal the High Court has allowed the I.A. No. 3175 of 2011 filed by the respondent no. 2 herein and permitted to withdraw the Civil Suit No 132A of 1999 filed before the Trial Court and disposed of the appeal setting aside the judgment and decree passed by the first appellate court; and in review petition, the High Court has declined to interfere with the aforesaid judgment and order passed in the second appeal and dismissed the said petition.
6. The facts briefly recapitulated are: the respondent no.2/plaintiff had filed a suit for partition and separate possession of the suit schedule property against the appellants and respondent nos. 1, 3 and 4 herein. After recording of the evidence of the parties to the lis, the Trial Court had dismissed the suit filed by the plaintiff by judgment and order dated 25.09.2002.
7. Aggrieved by the aforesaid, the plaintiff had filed an appeal before the First Appellate Court. The First Appellate Court after hearing the learned counsel for the parties to the lis has allowed the first appeal and declared that the plaintiff and the defendants have certain respective shares in the suit schedule property and directed the Collector to accordingly partition the property by judgment and order dated 10.02.2005.
8. Aggrieved by the aforesaid, the purchaser of suit property from the defendants had filed second appeal before the High Court. In the said appeal, the plaintiff had filed an application, I.A. No. 3175 of 2011, inter alia, seeking permission of the Court to withdraw the suit filed by her. The High Court by its impugned judgment and order has allowed the prayer made in the said application and disposed of the appeal in light of the same by setting aside the judgment and order of the first appellate court, dated 02.10.2011.
9. Aggrieved by the said judgment and order passed by the High Court in second appeal, the appellants herein filed a review petition. The High Court has observed, inter alia, that there exists no ground for review in the matter which would suggest that prima facie the judgment and order in second appeal is illegal and that no right of the appellants is affected



VERSUS

GULABSINGH (D)THRU LRS. &ORS.

Respondent(s)

(With appln(s) for c/delay in filing SLP,c/delay in filing substitution appln.,exemption from filing O.T. and prayer for interim relief ))

WITH SLP(C) NO. 18404 of 2012

(With appln.(s) for substitution and c/delay in filing substitution application and office report)

Date: 19/11/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU

HON'BLE MR. JUSTICE MADAN B. LOKUR

For Petitioner(s) Mr.S.S.Khanduja, Adv.  
Dr.Pratyush Nandan, Adv.  
Ms.Meenakshi, Adv.  
For Mr. Yash Pal Dhingra,Adv.

For Respondent(s) Mr. Mohit Kumar Shah,Adv.

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

Delay condoned in filing the application for substitution.

Application for substitution is allowed.

: 2 :

Delay condoned in filing the Special Leave Petition.

Leave granted.

The appeals are allowed, in terms of the signed order.

(G.V.Ramana)  
Court Master  
(signed order is placed on the file)

(Vinod Kulvi)  
Asstt.Registrar