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SLP(Crl.)No. 3751 OF 2000

ITEM No.204

Court No. 4

SECTION IIA
A/N MATTER

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 (Crl.) No. 3751/2000

(From the judgement and order dated 29/09/2000 in CRLA 1419/2000
of The HIGH COURT OF BOMBAY AT NAGPUR)

WASUDEO & ANR.

Petitioner (s)

VERSUS

VILAS & ORS.

Respondent (s)

(With Appln(s). for exemption from filing c/c of the impugned
Judgment and stay) (For Final Disposal)

Date : 13/07/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s) Mr.Sudhir Voditel, Adv. for
Mr. A.K. Sanghi,Adv.

For Respondent (s)
Mr. S.S. Shinde, Adv.
Mr. S.V. Deshpande,Adv.

Mr. Rudreshwar Singh, Adv.
Mr. Shishir Pinaki, Adv.

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

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Leave granted.
Appeal disposed of in terms of the signed order.

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(J.S. Rawat)
Court Master

(Suneet Bala Sharma)
Court Master

(Signed order is placed on the file)

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CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No. of 2001@@
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(Arising out of SLP(Crl) No. 3751/2000)

Wasudeo & Anr. ...Appellant (s)

Versus

Vilas & Ors. ...Respondent(s)

O R D E R~@@
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Leave granted.

The short question that arises for our consideration in this appeal is whether continuance of proceedings under Section 145 Cr.P.C. at all would be in the interest of justice when admittedly a civil suit is pending in respect of the property between the parties and further the matter is also pending before the Charity Commissioner.

As it appears, on the basis of certain complaints, the Magistrate initiated a proceeding under Section 145 Cr.P.C., passed a preliminary order and then passed the final order declaring possession of one of the parties. Against the said order the matter being moved to the District Judge in revision, the District Judge set aside the finding of the Magistrate and remitted the matter for reconsideration and redisposal. The matter was then carried to the High Court and the High Court refused to interfere. Thereafter the matter has been moved in this Court. The question therefore arises for our consideration, whether at all at this stage and in ...2

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these circumstances, it would be appropriate to sustain the order of the District Judge remanding the matter to the Magistrate and directing the Magistrate to reconsider the matter on the basis of the materials already produced before him. Since admittedly the dispute is pending before the civil court in a civil suit, the appropriate court or forum for any interim direction for the protection of the property is the civil court and, therefore, it would not at all be advisable to ask the Magistrate in a proceeding under Section 145 Cr.P.C. to examine the affidavits filed by the parties and come to a conclusion about the possession of any party on the date of the preliminary order of two months prior thereto. In the aforesaid circumstances, we quash the proceedings under Section 145 Cr.P.C. and direct the civil court to dispose of the civil suit as expeditiously as possible. Any aggrieved person can approach the civil court for any interim direction in accordance with law.

The appeal stands disposed of accordingly.

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.....J@@
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(G.B. PATTANAIAK)@@
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New Delhi,
July 13, 2001

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(BRIJESH KUMAR)@@
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