

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

I.A. No.... OF 2012 IN CIVIL APPEAL NO.5614 OF 2008

BAJRANGLAL SWAMI (DEAD) BY L.RS.

Appellant (s)

VERSUS

GAURI SHANKAR & ORS.

Respondent(s)

(With appln(s) for ex-parte stay)

Date: 17/08/2012 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR
HON'BLE MR. JUSTICE J. CHELAMESWAR

For Appellant(s)

Mr. Seeraj Bagga, Adv.
Mr. Rajinder Mathur, AOR

For Respondent(s)

Mr. Pallav Shisodia, Sr. Adv.

Nos.5 to 8

Mr. Sarad Kumar Singhania, AOR

Respondent-In-Person

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

This un-numbered interlocutory application has been filed in Civil Appeal No.5614 of 2008, by the legal heirs of the deceased appellant, Bajranglal Swami, inter alia, praying for stay of order dated 3rd July, 2006, passed by the Jodhpur Bench of the Rajasthan High Court. It may be indicated that when the appeal was entertained, interim prayers of similar nature had been refused. Thereafter, the decree which had been obtained by the respondents herein, was put into execution, but on account of various proceedings taken, the same could not be executed.

While the appeal was pending, certain other proceedings were taken by the appellant and in one of the proceedings, which has been brought to our notice, namely, S.B. Civil Misc. Petition No.6072 of 2012, the High Court directed the Trial Court to execute the decree within a week from the date of the order, with police help, if necessary, and hand over the vacant and peaceful possession of the suit premises to the decree-holders forthwith.

Apart from the above, yet another order passed by the High Court in S.B. Civil Contempt Petition No.7 of 2010 on 24th July, 2012, was also brought to our notice by Mr. Pallav Shisodia, learned senior counsel appearing for the respondents, wherein directions had been given to the Executing Court to hear and dispose of the execution petition on or before 6th August, 2012.

As far as order dated 13th August, 2012, is concerned, the same appears to have been passed without the order of 24th July, 2012, having been brought to the Court's notice. In our view, the said order of 24th July, 2012, is the correct procedure adopted by the Court for disposing of the execution proceeding and making over vacant possession of the premises to the respondents concerned.

Accordingly, in supersession of the various orders, which

have been passed, we direct the Executing Court to hear out Civil Suit No.10 of 2008, arising out of execution of the decree dated 1st February, 2012, pending before the Additional District Judge, Churu, Rajasthan, in accordance with law, within one month from the date of communication of this order.

As far as Civil Appeal No.5614 of 2008, is concerned, let the same be taken up separately for final disposal.

Till the executing proceedings are finally disposed of, the parties shall maintain status quo with regard to the suit premises.

The interlocutory application is disposed of accordingly.

|(Chetan Kumar)
|Court Master

|(Juginder Kaur)
|Assistant Registrar

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