

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

Petition for Special Leave to Appeal (Civil) No.16488/2011  
(From the judgment and order dated 09/03/2011 in CMWP  
No.12565/2011 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

BEN BEHARI GAUTAM & ORS. Petitioner(s)

VERSUS

SHYAM VIHARI & ORS. Respondent(s)

(With appln(s) for permission to file additional documents and  
IAS. 5-6-permission to file rejoinder affidavit and exemption  
from filing O.T. and with prayer for interim relief and office  
report)

Date: 07/05/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN  
HON'BLE MR. JUSTICE ANIL R. DAVE

For Petitioner(s) Mr. Harshvir Pratap Sharma, Adv.  
Mr. Sharad Kumar Vaish, Adv.  
Mr. K.S. Rana, Adv.

For Respondent(s) Mr. Yash Pal Dhingra, Adv.  
rr.1

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

Leave granted.

The appeal stands disposed of in terms of the  
signed order.

[ Charanjeet Kaur ]  
Court Master

[ Kusum Gulati ]  
Court Master

[ Signed order is placed on the file ]  
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4298 OF 2012  
( Arising out of SLP(C) No. 16488/2011 )

Ben Behari Gautam & Ors. .. Appellant(s)

Versus

Shyam Vihari & Ors. .. Respondent(s)

O R D E R

A letter has been circulated on behalf of respondent

No. 1 praying for time to file reply to the additional

points, stated to have been urged in the rejoinder affidavit filed by the petitioners. However, while opposing the prayer for adjournment, learned counsel for the petitioners states that he would not base his case on the rejoinder affidavit and therefore, the same may be ignored.

Accordingly, we have heard learned counsel for the parties.

Leave granted.

On a pointed query by the Court as to how a public interest petition, in which the impugned order, dated 9th March, 2011 has been passed, was maintainable when private interest of the parties were involved, learned counsel for

..2/-

: 2 :

contesting respondent No. 1 submits that since in an another petition, being C.M.W.P. No. 33558 of 2008, some directions relating to the consolidation proceedings had been issued, which were likely to affect his rights, the said respondent had no option but to file a petition in the public interest.

We are not satisfied with the explanation furnished. We feel that if some order/direction was prejudicial to the interest of the first respondent, it did not give rise to any public interest, which could be made subject matter of a petition in public interest. It was a cause personal to him for which he had to work out some other remedy as may be available to him in accordance with law. We have no hesitation in holding that the writ petition in the public interest was utterly misconceived and should not have been entertained by the High Court.

Consequently, without going into the merits of  
impugned order, we set aside the same. The appeal is  
allowed and PIL No. 12565 of 2011 stands dismissed. We once  
again clarify that we have not expressed any opinion on the  
merits of the consolidation proceedings of Village  
Maghera, Tehsil and District Mathura. We would request the

..3/-

: 3 :

High Court to dispose of W.P. No. 10141 of 1998 as  
expeditiously as practicable.

The appeal stands disposed of accordingly.

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[ D.K. JAIN, J. ]

.....  
[ ANIL R. DAVE, J. ]

NEW DELHI,  
MAY 07, 2012.