

V
SLP(C)No. 19074 OF 1999

ITEM No.203

Court No. 5

SECTION XVII
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 (Civil) No.19074/1999

(From the judgement and order dated 25/08/1999 in AFAD 196/97
of The HIGH COURT OF PATNA)

BIPIN BIHARI SHUKLA AND ORS.

Petitioner (s)

VERSUS

BACHA SHUKLA

Respondent (s)

(For Final Disposal)

Date : 27/04/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.T. THOMAS
HON'BLE MR. JUSTICE R.P. SETHI

For Petitioner (s) Mr. M.K. Choudhary, Adv.
Mr. S.K. Verma, Adv.

For Respondent (s)

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

.....L.....I.....T.....T.....T.....T.....T.....J.....

.SP2

Respondent is treated as served.
Leave granted.
Appeal is disposed of.

.SP1

Sushma (H.K. Bhatia)
Court Master

Signed order is placed on the file.

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.PL55

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3349 OF 2001@@
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Bipin Bihari Shukla & Ors. Appellant (s)

versus

Bacha Shukla Respondent(s)

O R D E R@@
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.....L.....I.....T.....T.....T.....T.....T.....J.....
.SP2

Respondent is treated as served.
Leave granted.

The High Court in a second appeal has interfered with the fact finding entered by the First Appellate Court on the question of undue influence, fraud etc in the execution of Ext.A-Sale Deed. It is true that the trial court has dismissed the suit and it was in reversal of the said decree that the first Appellate Court has decreed the suit.

To confer jurisdiction on the High Court under section 100 of the Code of Civil Procedure, a substantial question of law is sine qua non. We have not seen from the impugned judgment, as to whether any such substantial question of law had been formulated by the respondent when he filed the second appeal. The High Court was not bothered to see whether any such substantial question of law had arisen in the second appeal.

We, therefore, set aside the impugned judgment. The second appeal shall stand remitted to the High Court for disposal afresh according to law.

In the above terms, we dispose of this appeal.

.SP1

.....J
(K.T. THOMAS)

.....J
(R.P. SETHI)

New Delhi,
April 27, 2001

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