

ITEM NO.21

COURT NO.13

SECTION XI

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)...../2013
CC 15045/2013

(From the judgement and order dated 17/03/2011 in WP No.2162/2011,
of The HIGH COURT OF JUDICATURE AT ALLAHABAD, BENCH AT LUCKNOW)

STATE OF U.P. & ANR.

Petitioner(s)

VERSUS

SITAU DEVI

Respondent(s)

with I.A.1

(With appln(s) for c/delay in filing SLP,c/delay in refiling SLP)

Date: 02/09/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ANIL R. DAVE

HON'BLE MR. JUSTICE DIPAK MISRA

For Petitioner(s)

Mr. Gaurav Bhatia, A.A.G.

Mr. Sudeep Kumar, Adv.

Mr. Anuvrat Sharma, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeal is disposed of as partly allowed in terms of the
Signed Order.

| (Rajni Mukhi)
| SR. P.A.

| | (Sneh Bala Mehra)
| | Court Master

(The Signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7370 OF 2013
(arising out of SLP (C) No. 27582/2013 arising out
of CC No. 15045/2013)

STATE OF U.P. & ANR.

APPELLANTS

VERSUS

SITAU DEVI

RESPONDENT

O R D E R

It is really deplorable that delay of 371 days has been caused in filing this petition. Moreover, there is delay of further 380 days in re-filing the petition.

Looking to the facts of the case, in our opinion, the petition should not have been entertained and should have been rejected only on the ground of delay. However, looking to the direction which has been given by the High Court, which is general in nature, we feel that we will have to entertain this Special Leave Petition.

Leave granted.

It has been directed by the High Court that in the Habeas Corpus matter, an officer not below the rank of the Superintendent of Police of the Districts shall file affidavit on behalf of the State. In our opinion, it might be just in a particular case that the affidavit

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be filed by an officer not below the rank of the Superintendent of Police but in all cases, it may not be necessary to get the affidavit filed by the Superintendent of Police. It would depend upon the facts of the case. In a case where it is inconvenient, even a Gazetted Officer, who may duly be authorised by the Superintendent of Police, may also be permitted to file an affidavit.

Thus, we modify the order of the High Court to the effect that affidavit of a Gazetted Officer should be filed in Habeas Corpus petitions.

The order is modified accordingly and the appeal is disposed of as partly allowed.

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

[DIPAK

MISRA]

.....J.

NEW DELHI;
SEPTEMBER 2, 2013