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SLP(C)No. 2861-2862 OF 2000
ITEM No.203

Court No.10

SECTION XI
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.2861-2862/2000

(From the judgement and order dated 09/09/1999 in SA 1649/62&425/1960
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

RAJESHWAR DAYAL & ORS

Petitioner (s)

VERSUS

AVNEESH KUMAR AVASTHI & ORS

Respondent (s)

(With prayer for interim relief)
(With Appln(s). for exemption from filing O.T.)
(For Final Disposal)

Date : 12/10/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.P. MOHAPATRA
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL

For Petitioner (s) Mr. R.B.Mehrotra, Sr. Adv.
Mr. M.M. Kshatriya, Adv.
Mr. Jagdish Singh, adv.

For Respondent (s) Mr. P.P.Malhotra, Sr. Adv.
Mr. Vineet Malhotra, adv.
Mr. Shailender Sharma, adv.
Ms. Binu Tamta, Adv.

Mr. praveen Swarup, Adv. for
Mr. Praveen Swarup, adv.

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

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A Constitution Bench of this Court by the judgment rendered on 27.3.1973 in C.A.Nos. 1402-1403 of 1969 issued certain directions for disposal of the appeals by the High Court. One of the directions issued was that the appeals will be decided on merits when the appropriate authority under Sec.5 of the U.P.Urban Areas and Zamindari Abolition

and Land Reforms Act 1956, has held the land in dispute is not an 'agricultural land'. This Court further directed

that if it is held by him that the land in dispute is an 'agricultural area' and the State Government issues a notification under Sec.8 of the Act with respect to the land the appeals may be disposed of in accordance with the provisions of the Act.

It is unfortunate that after lapse of more than two decades since the Court disposed of the case, the matter has not been finally decided under Sec.5 of the Act. It is stated by learned counsel for the parties that the Commissioner passed the order under Section 5 in the month of May, 2001 and against the said order an appeal has been filed before the Board of Revenue under sub-section (3) of Sec.5. The appeal is registered as appeal No.93(Z)(M)/2001, titled: Rajeswar Dayal and others. vs. State of Uttar Pradesh and others.

This special leave petition has been filed in the year of 2000 and adjournments have been taken awaiting final demarcation under Sec.5 of the Act as directed by the Constitution Bench.

The Board of Revenue is directed to dispose of the aforementioned appeal within six weeks. It is stated

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before us that the appeal is posted to 22nd October, 2001 for hearing. The Board of Revenue will take up the appeal on that day and dispose it of expeditiously within the time specified. Learned counsel appearing for the respondents undertakes to appear before the Board of Revenue on 22nd October, 2001 without further notice. A copy of the order passed by the Board of Revenue will be sent to this Court immediately. The case will be listed after eight weeks.

A copy of this order be sent to the Board of Revenue, Uttar Pradesh, forthwith.

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(Suman Wadhwa)
Court Master

(S.Malkani)
Court Master