

ITEM NO.1

COURT NO.7

SECTION IX

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Conmt. Pet.(Civil) No.87 of 2006  
in CIVIL APPEAL NO. 2501 OF 2002

RAJA MOHAMMED AMIR MOHAMMAD KHAN

Appellant (s)

VERSUS

S.N. MENON SECRETARY COMMERCE MIN. &amp; ANR.

Respondent(s)

[For Appln.(s) for impleadment, direction/modification, permission to file documents and rejoinder affidavit, permission to file appln. for direction, exemption from filing O.T., permission to file addl. documents and permission to file additional affidavit and office report)

WITH

I.A.NOS. 2, 10-15, 19-26, 29-30, 35-48 AND 59 IN C.A.NO.2501/2002.  
(for Direction and impleadment and clarification of Court's order and office report)

Date: 12/02/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR

HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Appellant(s)

Mr. A.S. Rawat, Adv.

Mr. K.S. Rana, Adv.

Contmt.Pet.87/06 in  
CA 2501/02  
/applicant

Mr. Salman Khurshid, Sr. Adv.

Mr. Shyam Divan, Sr. Adv.

Mrs. Anjali K. Varma, Adv.

Mr. Niraj Gupta, Adv.

Mr. A. Ahmad, Adv.

Ms. Meera Mathur, Adv.

Mr. Asha Ram, Adv.

Mr. Subhash Chandra Jain, Adv.

Mr. Ameet Singh, Adv.

Mr. Bharat Ram, Adv.

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Mr. Shirish Kr. Misra, Adv.

IA24 in CA.2501/02

Mr. Shrish Kumar Mishra, Adv.

Mr. Ajay Kumar Singh, Adv./Ms. Sunita Gautam, Adv.

Mr. S.R. Singh, Sr. Adv.

Mr. Shail Kumar Dwivedi, AAG., Mr. R.K. Gupta, Adv.

Mr. Manoj Kumar Dwivedi, Adv.

Mr. G.V. Rao, Adv.

For State of UP Mr. Rakesh Dwivedi, Sr. Adv.

Mr. Shail Kr. Dwivedi, Adv.

Mr. Shantanu Krishna, Adv.

Mr. Gunnam Venkateswara Rao, Adv.

in Contmt.Pet 87/06

Mr. Kailash Vasdev, Sr. Adv.

Mr. Sunil Kumar Jain, Adv./Mr. Aneesh Mittal, Adv./

Mr. Ajay Bhatia, Adv./Mr. Siddharth Jain, Adv.

Mr. Saurabh Ajay Gupta, Adv.

Mr. A. Mariarputham, Sr. Adv.

Ms. Shweta Garg, Adv.

Mr. Ashish Gopal Garg, Adv.

Mr. S.N. Terdal, Adv.

C.P.87/06

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UPON hearing counsel the Court made the following

ORDER

I.A.29 of 2008

This application has been filed in contempt petition(C) No.87 of 2006 in Civil Appeal No.2501 of 2002, inter alia, for a direction upon the District Magistrate, Nainital, to put the applicant back in possession of the house from which he had been dispossessed by the District Magistrate in compliance with the order passed by this Court on 21st October, 2005, in the above-mentioned Civil Appeal.

From the submissions made, it appears that the applicant has already filed a Civil Suit, being No.26 of 2006, which is pending before the

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learned Civil Judge (Jr. Division) Nainital, for similar reliefs.

Mr. Avtar Singh Rawat, learned advocate, appearing for the applicant submits that in view of the final order passed in the above-mentioned Civil Appeal no decision can be taken in the Civil Suit filed by the applicant, despite the fact that the applicant's predecessor-in-interest had acquired an interest in the property in question in or around the year 1922, that is, long before the Custodian came into possession of the estate of the Raja Mahmudabad.

The apprehension of the applicant is unfounded in view of the subsequent clarification made by this Court on 8th September, 2006 in SLP(C)No.14943 of 2006, which reads as follows:-

"These Special Leave Petitions are disposed of with the clarification that persons who were inducted/allotted properties by the Custodian or who came in possession after 1965 i.e. on or after declaring the property of Raja Mahmudabad as enemy property and appointment of the custodian, have to vacate the properties in their possession. Persons claiming possession, prior to the appointment of the Custodian declaring the property of Raja Mahmudabad, father of the respondent, as enemy property, based on duly authenticated tenancy created by the then Raja Mahmudabad or his General Power of Attorney shall not be covered by this Court's judgment passed in Civil Appeal No.2501 of 2002 dated October 21, 2005 titled Union of India & Another vs. Raja

Mohammed Amir Mohammad Khan  
reported in (2005) 8 SCC 696. "

The above order clearly indicates that in the event petitioner has  
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acquired an interest in the property prior to 1965, he will not be covered by the judgment passed in Civil Appeal No.2501 of 2002. It will, however, be for the applicant to establish his case before the Civil Court. We also make it clear that while disposing of this application, we are only considering the maintainability of the application which is disposed of with the aforesaid observations.

Let this matter be listed for further consideration on 19 th February, 2009, as a continuing part-heard matter at the top.

(Sheetal Dhingra)  
Court Master

(Juginder Kaur)  
Court Master