

^ ,ITEM NO.202

COURT NO.6 SECTION IIA  
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 (Crl) No(s).6209/2010  
(From the judgement and order dated 21/07/2010 in WPCRL No.  
1236/2009 of The HIGH COURT OF BOMBAY)

SHIVAJIRAO MADHAVRAO MANKAR Petitioner(s)  
VERSUS  
STATE OF MAHARASHTRA & ORS. Respondent(s)  
(With appln(s) for ex-Parte stay,exemption from filing c/c of the  
impugned Judgment,impleadment and office report)  
WITH CONMT.PET.(C) NO. 220 of 2010(With office report)  
SLP(Crl) NO. 6420 of 2010(With office report)

Date: 04/04/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU  
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s) Mr. Jayant Bhushan, Sr. Adv.  
In SLP 6209/2010 Mr. P.N. Puri,Adv.  
Mr. Prashant Rebkar, Adv.

In SLP 6420/2010 Mr. A.Dubey, Adv.for  
Mr. E.M.S. Anam

For Respondent(s) Mr. Vinay Navare, Adv.  
Mr. Keshav Ranjan, Adv.for  
Ms. Abha R. Sharma ,Adv  
  
Mr. Ravindra Keshavrao Adsure, Adv.  
  
Mr. Chinmoy Khaladkar, Adv.for  
Ms. Asha G.Nair, Adv.

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

Leave granted.

The Appeals are disposed of in terms of the signed  
order.

The Contempt Petition is dismissed.

No order on the pending application for impleadment,  
if any.

(Neelam Arora)  
Court Master

(Parveen Kr. Chawla)  
Court Master

[signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.867 OF 2011  
(Arising from SLP(Crl.) No.6209/2010)

Shivajirao Madhavrao Mankar ..Appellant

versus

State of Maharashtra & Others ..Respondents

WITH  
CONTEMPT PETITION(C) NO.220/2010  
CRIMINAL APPEAL NO.868 OF 2011  
(Arising from SLP(Crl.) No.6420/2010)

O R D E R

Criminal Appeal @ SLP(Crl.) No.6209/2010

Leave granted in the special leave petition.

Heard learned counsel for the parties.

This Appeal has been filed against the impugned judgment and order dated 21st July, 2010 passed by the High Court of Judicature at Bombay in Writ Petition No. 1236 of 2009. In that writ petition, the order of the S.D.M., Pune City dated 17.08.2009 was challenged, and it was also prayed that certain police personnel be added as accused. That petition has been allowed by the High Court, and hence this appeal.

The facts have been set out in the impugned judgment and hence we are not repeating the same here.

We are of the opinion that the High Court was not justified in entertaining the writ petition against the order of the S.D.M. Dated 17.08.2009 in proceedings under Section 145 Cr.P.C., since there was a clear alternative CRIMINAL APPEAL NO.867 OF 2011 etc.

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remedy by filing a criminal revision or petition under Section 482 Cr.P.C. against that order. Moreover, we see no infirmity in the order of the learned S.D.M. Dated 17.08.2009.

Admittedly, the respondent Nos. 2 to 7 were the tenants on the ground floor of the premises in question. Hence, they had no right to take forcible possession of the first and second floor of the premises in question which they appear to have done.

The appellant herein claims to be the owner of the property. All these matters are to be decided in civil suit No.331/2010 and 710/2010 which are pending.

Hence, we set

aside the impugned judgment of the High Court and restore the order of the Sub Divisional Magistrate dated 17.08.2009. Civil Suit No.331/2010 along with Civil Suit No. 710/2010 shall be decided expeditiously, preferably within six months from the date of receipt of a copy of this order

The Appeal is disposed of in the above terms.

CONTEMPT PETITION(C) NO.220/2010  
Heard learned counsel for the parties.

In view of our order passed in the appeal arising from SLP(Crl.) No.6209 of 2010, the contempt petition is dismissed and contempt notice is discharged.

CRIMINAL APPEAL NO.867 OF 2011 etc.

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Criminal Appeal arising from SLP(Crl.) No.6420/2010

Leave granted.

Heard learned counsel for the parties.

The only challenge in this appeal by the appellants is regarding the direction of the High Court by which they have been added as co-accused.

We set aside the said direction of the High Court.

The Appeal is disposed of accordingly.

.....J.  
[MARKANDEY KATJU]

NEW DELHI;  
APRIL 04, 2011

.....J.  
[GYAN SUDHA MISRA]