

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).23438/2008

(From the judgement and order dated 10/09/2008 in WP No.13/2006
of The HIGH COURT OF ALLAHABAD, BENCH AT LUCKNOW)

RAJ BISARIA

Petitioner(s)

VERSUS

HAR PRASAD SHARMA

Respondent(s)

(With appln(s) for exemption from filing O.T., prayer for interim relief and office
report)

Date: 03/10/2008 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL
HON'BLE MR. JUSTICE G.S. SINGHVI

For Petitioner(s) Mr. Vishwajit Singh,Adv.

For Respondent(s) Mr. P.N. Misra, Sr. Adv.
Mr. Vibhakar Mishra, Adv.
Mr. K.K. Pandey, Adv.
Mr. Pankaj Sharma, Adv.
Mr. Abhishth Kumar, Adv.

UPON hearing counsel the Court made the following
ORDER

Heard learned counsel for the parties.
The District Judge, by order dated 18th January,
2006 passed in Miscellaneous Case No.9 of 2008, while
disposing of the application filed by the respondent under
Sections 151 and 152 of the Code of Civil Procedure, 1908,
passed the following order:

....2/-

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"In the result, the appeal is partly allowed
and the judgement and order passed by the
Prescribed Authority dated 01-07-1982 is hereby
modified to the extent that only part of the release
to the landlord-respondent be allowed the portion
on the first floor of covered verandah, court-yard,
kitchen, room, latrine-cum-bathroom and room on
the garage and the whole of the second floor, on
the condition that the respondent shall make
improvement of constructing latrine and bathroom
in the South side of gallery 4'x 4', within a period
of six months from today, there being already
separate entrance to the respective portions
released in favour of the parties, who shall
mutually settle the rent of the part released in
favour of the landlord or get the same determined
from competent court. In case these improvements
are not made within the time allowed, release of
that part will stand dismissed. In the

circumstances of the case, the cost of proceedings in lower court as well as in this court shall be borne by the parties. In case these improvements are carried out, within the time allowed and the appellant fails to deliver possession of the part released to the landlord, as shown in commissioner's plan paper no.9-Ga/7, Annexure-B, which shall form part of the decree, the appellant landlord-respondent can get the possession of the part, released, through process of the court at the expenses of the appellant."

Against the said order, when the matter was taken to the High Court, the said order has been confirmed but, while doing so, High Court has directed the tenant to vacate the premises within fifteen days from the date of the order.

....3/-

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Learned counsel appearing on behalf of the tenant stated that his client is agreeable to vacate within fifteen days 4x4 ft. space south of the gallery, as directed by the learned District Judge, for constructing latrine/bathroom thereon. Learned counsel appearing on behalf of the landlord stated that the construction shall be completed within a period of three months from the date possession of the said portion is delivered to him. Let it be so done. After the construction is completed, the possession of latrine/bathroom shall be delivered to the tenant, who shall vacate the portion released in favour of the landlord within one month from the date the possession of latrine/bathroom is handed over. To this extent, impugned order passed by the High Court stands modified.

The special leave petition is, accordingly, disposed of.

[T.I. Rajput]
A.R.-cum-P.S.

[Savita Sainani]
Court Master