

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Civil) No.31353/2009
(From the judgment and order dated 24/06/2009 in FA No.339/2009 of The
HIGH COURT OF BOMBAY AT NAGPUR)

SHAKUNTALABAI & ANR. Petitioner(s)

VERSUS

NANAJI DEWAJI WADASKAR Respondent(s)
(With appln(s) for restoration and c/delay in filing application for
restoration and with prayer for interim relief and office report)

Date: 22/04/2013 This Petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR
HON'BLE MR JUSTICE PINAKI CHANDRA GHOSE

For Petitioner(s) Mr. Kishor Ram Lambat, Adv.
Mr. D.K. Pradhan, Adv.
Mr. S. Rajappa, Adv.

For Respondent(s) Mr. Garvesh Kabra, Adv.

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

Delay condoned in application for restoration of special
leave petition qua respondent Nos. 1 and 3.

For the reasons stated in the application, it is allowed
and the special leave petition is restored qua respondent Nos. 1
and 3.

Leave granted.

The appeal is allowed. The impugned judgment of the High
Court is set aside. The matter is remanded back to the High
Court for a decision on merits after giving due opportunity of
hearing to all the parties.

No costs.

|(VINOD LAKHINA)
|COURT MASTER

|(INDU BALA KAPUR)
|COURT MASTER

(SIGNED NON-REPORTABLE ORDER IS PLACED ON THE FILE)

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3958 OF 2013

[Arising out of Special Leave Petition (Civil) No.31353 of 2009]

SHAKUNTALABAI & ANR.

...APPELLANTS

VERSUS

NANAJI DEWAJI WADASKAR

...RESPONDENT

ORDER

Delay condoned in application for restoration of special leave petition qua respondent Nos. 1 and 3.

For the reasons stated in the application, it is allowed and the special leave petition is restored qua respondent Nos. 1 and 3.

Leave granted.

The impugned order has been passed by the High Court assuming that the appeal before the High Court was a Second Appeal. This is patent from the judgment itself which mentions that the decision is rendered in Second Appeal No.339 of 2009.

It has been pointed out by the learned counsel for the appellants that, in fact, the Court was seized only of the First Appeal. This submission of the learned counsel is borne out from the grounds of appeal submitted before the High Court which mention First Appeal No.339 of 2009.

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A perusal of the judgment passed by the High Court shows that none of the submissions made by the appellants before the High Court have been considered. Furthermore, the judgment does not indicate the reasons for the conclusions recorded in the judgment.

In view of the above, the judgment of the High Court is not sustainable. The appeal is allowed. The impugned judgment of the High Court is set aside. The matter is remanded back to the High Court for a decision on merits after giving due opportunity of hearing to all the parties.

No costs.

.....,J.
(SURINDER SINGH NIJJAR)

.....,J.
(PINAKI CHANDRA GHOSE)

NEW DELHI
APRIL 22, 2013