

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(s).30506/2009

(From the judgement and order dated 12/02/2009 in WA No.1193/2008
of The HIGH COURT OF M.P AT JABALPUR)

ASHOK KUMAR PATKAR Petitioner(s)

VERSUS

STATE OF M.P.& ORS. Respondent(s)

(With prayer for interim relief and office report)

Date: 05/01/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE CYRIAC JOSEPH
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s) Mr. Anip Sachthey,Adv.
Mr. Mohit Paul, Adv.
Ms. Shagun Matta, Adv.

For Respondent(s) Mr.Vikas Upadhayay, Adv.
Mr. B.S. Banthia,Adv.

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

Leave granted.
The appeal is disposed of in terms of the signed
order.

(Shashi Sareen) (Renuka Sadana)
Court Master Court Master
(Signed order is placed on the file)
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 210 OF 2012
(Arising out of SLP(C) No. 30506 of 2009)

ASHOK KUMAR PATKAR ... Appellant(s)

Versus

STATE OF M.P. & ORS. ... Respondent(s)

O R D E R

Leave granted.

This appeal is filed against the judgment dated 12.02.2009 passed by a Division Bench of the High Court of Madhya Pradesh, Jabalpur in Writ Appeal No. 1193 of 2008. The appellant was the appellant in the said Writ Appeal.

It is seen from the impugned judgment that the Writ Appeal was allowed to be withdrawn and, accordingly, the Writ Appeal stood disposed of as withdrawn. However, it appears that learned counsel for the appellant in the Writ Appeal had sought permission to withdraw the appeal in the light of the observation of the Court that the order impugned in the Writ Appeal was passed in a petition filed under Article 227 of the Constitution of India. In fact, learned counsel had also stated that he would advise the appellant to approach the Supreme Court.

It is brought to our notice that subsequent to the impugned judgment in the Writ Appeal, a Full Bench of the

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High Court of Madhya Pradesh in J.S.J. Real Estate Pvt. Ltd. Vs. Collector, Dewas and Ors. has held that Writ Petitions against the orders passed by the Tribunals which have judicial members and Writ Petitions filed under Articles 226 and/or 227 of the Constitution should be heard and disposed of by a Division Bench and writ petitions against the orders passed by all other Tribunals should be heard and disposed of by a Judge sitting alone in accordance with Rule 1(11) of Chapter IV of the High Court of Madhya Pradesh Rules, 2008.

It is seen from the judgment of the Full Bench of the High Court that orders of other statutory authorities and Tribunals with no judicial members may be challenged under Articles 226 and/or 227 of the Constitution Of India first before a learned Single Judge in terms of Rule 1(11) of Chapter IV of the High Court of Madhya Pradesh Rules and thereafter before a Division Bench under Section 2 of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko

Appeal) Adhiniyam 2005, if the order of the learned Single Judge is one under Article 226 of the Constitution and not under Article 227 of the Constitution.

Learned counsel for the appellant submitted before us that Writ Petition No. 7972 of 2004 filed by the appellant was under Articles 226/227 of the Constitution of India and it was heard by a learned Single Judge and hence in the light of the judgment of the Full Bench, an appeal would lie against the judgment in Writ Petition No. 7972 of 2004 before a Division Bench of the High Court. Learned counsel

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for the appellant further submitted that Writ Appeal No. 1193 of 2008 was maintainable before a Division Bench of the High Court and it was under a misconception that the same was sought to be withdrawn by learned counsel for the appellant.

Learned counsel requests that the impugned judgment may be set aside and the matter may be remitted back to the High Court so that Writ Appeal No. 1193 of 2008 may be decided afresh by a Division Bench of the High Court.

Having heard learned counsel for the appellant and also learned counsel for the respondent and in the light of the above-mentioned judgment of the Full Bench of the High Court and in view of the fact that the writ petition was filed also under Article 226 of the Constitution, we are of the view that Writ Appeal No. 1193 of 2008 should be heard and decided on merits by a Division Bench of the High Court.

Hence, the impugned judgment is set aside and the matter is remanded to the High Court. Writ Appeal No. 1193 of 2008 shall be heard and disposed of by a Division Bench of the High Court in accordance with law.

The appeal stands disposed of as above.

(CYRIAC JOSEPH)

.....J.

.....J.
(GYAN SUDHA MISRA)

New Delhi,
January 05, 2012.