

CASE NO.:
Appeal (civil) 1638 of 2008

PETITIONER:
Chhagan Lal [D] by LRs and Ors

RESPONDENT:
Kamal Chand [D] by LRs and Ors

DATE OF JUDGMENT: 26/02/2008

BENCH:
TARUN CHATTERJEE & HARJIT SINGH BEDI

JUDGMENT:
JUDGMENT
O R D E R

CIVIL APPEAL NO 1638 OF 2008
[Arising out of SLP [C] No.20263 of 2006]

1. Leave granted.
2. This appeal is preferred against the final judgment and order dated 31st of August, 2006 passed by the High Court of Judicature at Jabalpur, Madhya Pradesh, in Civil Revision No.1479, dismissing the civil revision with costs quantified at Rs.3,000/-. At the time of issuance of notice on 14th of December, 2006, this Court passed the following order:

" Counsel for the petitioners, who are the legal representatives of the purchaser from the plaintiff in the suit and who have been found guilty of the breach of the order of injunction states that the petitioners shall restore possession to the Receiver of the portion which was enjoined from being occupied and which was vacated by Punjab National Bank.

Issue notice. In the meantime, the attached property belonging to the petitioners shall not be sold."

3. We have heard learned counsel for the parties. Mr. Anip Sachthey, learned counsel appearing on behalf of the appellants before us, submitted, on instructions, that since there is no Receiver of the portion of the suit property in respect of which injunction was granted, possession could not be restored to the said Receiver. Since, notice by this Court was issued on the simple understanding that the appellants shall restore possession to the Receiver of the portion which was enjoined from being occupied, we are of the view that the order must be complied with. Mr, Sachthey, learned counsel appearing for the appellants, submits that if a Receiver is appointed, immediately the possession shall be delivered to him.

4. Considering the facts and circumstances of the case and the nature of order passed by this Court, we appoint Smt. Gulab Bai, widow of Sh. Kamal Chand, as Receiver to comply with the order of this Court and possession of the suit property which was enjoined from being occupied and vacated by the Punjab National Bank shall now be restored to her within four weeks from this date. If the possession is delivered to the Receiver appointed by this Court, the order of attachment passed by this Court on 14th of December, 2006 shall stand released. We, however, request the trial court, where the suit is now pending, to dispose of the suit within one year from the date of supply of a copy of this order.

5. The appeal is thus disposed of. There will be no order as to costs.