

SUPR EME COURT OF I ND I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).1373/2007

(From the judgement and order dated 06/01/2006 in CRP No.4760/2004 of the HIGH COURT OF A.P. AT HYDERABAD)

B. SATYANARAYANA & ANR.

Petitioner(s)

VERSUS

BONDALA NARAYANA

Respondent(s)

(With appln(s) for c/delay in filing SLP and with prayer for interim relief and office report)

Date: 20/07/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA
HON'BLE MR. JUSTICE DEEPAK VERMA

For Petitioner(s) Mr. Amit Kumar,Adv.
Ms. Rekha Bakshi,Adv.
Mr. Ashish Kumar,Adv.
Mr. Somesh Chandra Jha,Adv.
Mr. Surajeet A. Sangma,Adv.

For Respondent(s) Mr. Patiabhiram,Adv.
Mr. G.N. Reddy,Adv.

UPON hearing counsel the Court made the following

ORDER

Delay condoned.

Leave granted.

For the reasons mentioned in the signed order, the impugned judgment cannot be sustained which is set aside accordingly and the appeal is allowed. There shall be no order as to costs.

(A.S. BISHT)

(PUSHAP LATA

BHARDWAJ) COURT MASTER
MASTER

COURT

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4778 OF 2009
[Arising out of SLP(C) No. 1373/2007]

B. SATYANARAYANA AND ANR.

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APPELLANT(S)

:VERSUS:

BONDALA NARAYANA

...

RESPONDENT(S)

ORDER

Leave granted.

Without entering into the merit of the matter in detail, we are of the opinion that keeping in view the peculiar facts of this case and particularly in view the fact that decrees have been passed in favour of both the parties, the High Court should have applied its mind with regard to the offer made by the appellants to deposit a sum of Rs. 1,11,000/-, by an application dated 6.7.2004 whereas the sale had been concluded only on 27.4.2004. The High Court furthermore, in our view, was not correct in opining that only because the application was filed both under Rule 89 as also Rule 90 of Order 21 of the Code of Civil Procedure, the same was not maintainable. It is a well settled principle of law that mentioning of a wrong provision of law or non-mentioning, would not take away the jurisdiction of the Court, if it otherwise possessed of the same.

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For the aforementioned reasons, the impugned judgment cannot be sustained which is set aside accordingly. The appeal is allowed. There shall be no order as to costs.

We would, however, request the High Court to consider the desirability of disposing of the matter as expeditiously as possible, preferably within a period of three months from the date of communication of this order.

.....J
(S.B. SINHA)

.....J
(DEEPAK VERMA)

NEW DELHI,
JULY 20, 2009.