

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).21739/2006

(From the judgement and order dated 24/11/2006 in WPC No. 5066/2005 of  
The HIGH COURT OF JHARKHAND AT RANCHI)

GURU GHOSH

Petitioner(s)

VERSUS

RANJAN BHATTACHARJEE & ORS.

Respondent(s)

(With prayer for interim relief and office report )

Date: 07/03/2008 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR  
HON'BLE MR. JUSTICE J.M. PANCHAL

For Petitioner(s)

Mr. Sanjay Jain,Adv.

For Respondent(s)

Mr. Manoj Goel,Adv.  
Mr. Shuvodeep Roy,Adv.  
Mr. Wajeeh Shafiq,Adv.  
Mr. Gopal Verma,adv.

Mr. Brij Bhusan,Adv.

Mr. Chander Shekhar Ashri ,Adv

UPON hearing counsel the Court made the following  
ORDER

Leave granted.

The appeal is disposed of in terms of the signed order. There  
will be no order as to costs.

(Ganga Thakur)  
P.S. to Registrar

(Radha R. Bhatia)  
Court Master

Signed order is placed on the file.

CIVIL APPELLATE JURISDICTION  
IN THE SUPREME COURT OF INDIA

CIVIL APPEAL NO.1929 OF 2008  
(Arising out of SLP(C) No. 21739/06)

GURU GHOSH

...APPELLANT (S)

Versus

RANJAN BHATTACHARJEE & ORS.

..RESPONDENT  
(S)

ORDER

Leave granted.

This Appeal is directed against the judgment and order passed by the learned Single Judge of the Jharkhand High Court, allowing the writ petition filed by the respondents herein relating to the application made by the appellant before the Trial Court under Order XXI, Rule, 97 of the Code of the Civil Procedure.

The learned Judge while allowing the writ petition held that the application which had been filed on behalf of the appellant should not have been registered as a Misc. Case without reasons having been given for such registration. The learned Judge also found that the application appeared to be frivolous and mis-conceived and was liable to be rejected. On such finding, the learned Single Judge held that the order

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registering the application under Order XXI Rule 97 as a Misc. Case and issuing summons thereupon was illegal and without jurisdiction.

Having heard learned counsel for the respective parties, we are unable to agree with the observations made by the learned Single Judge since in terms of the Civil Court Rules and in particular Rule 459 thereof, which provides for registering an application filed under Rules 97 to 101 of Order 21 as a Misc. Judicial Case, the High Court appears to have committed an error. Once the said application was registered as a Misc. Case, the Court was under obligation to issue summons, since in keeping with the scheme of Rules 97 to 101 of Order XXI of the Code of Civil Procedure such application is to be dealt with by the Executing Court and not by way of a separate suit.

We, therefore, have no option but to set aside the order passed by the learned Single Judge, but we also direct that since this matter relating to eviction is pending for a long time, the proceedings under Order

XXI Rule 97 of the Code of Civil Procedure should be disposed of expeditiously and preferably within a period of one year from the date of communication of this Order.

The Appeal is disposed of accordingly.

There will be no order as to costs.

( ALTAMAS KABIR )

.....J.

.....j.  
(J.M. PANCHAL )

New Delhi,  
March 7, 2008.