

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8937 OF 2017

(Arising out of SLP (C) No.9450 of 2007)

KALAWATI DEVI & ORS.

... Appellants

VERSUS

RAM NARYAN CHAUHAN (D) BY LRS & ORS.

... Respondents

O R D E R

Leave granted.

Being grieved by the order dated 12.2.2017 passed by the learned Single Judge of the High Court of Judicature at Patna dismissing M.J.C. No.174 of 2007 which was filed for restoration of Second Appeal No.213 of 2004, the present appeal, by special leave has been preferred. The second appeal was dismissed as the court fee of Rs.291.75 was paid beyond the peremptory time fixed by the High Court.

Learned counsel for the appellants submitted that this Court had vide its order 21.01.2008 had indicated that the appeal may be restored subject to payment of costs as the dispute relates to the property as claimed by the appellants. Be it stated, the contesting respondent has not appeared despite service of notice.

Having heard the learned counsel for the appellants and the

learned counsel for the Respondent No.3(a), who is not a contesting respondent, we direct that M.J.C. No.174 of 2007 shall be allowed and the second appeal shall be restored to file subject to the appellants' making deposit of Rs.1,00,000/- (Rupees one lac only) before the High Court within two months hence which shall be paid to the contesting respondent by the High Court.

If the amount of costs is not deposited, as directed hereinabove, the dismissal of the second appeal shall remain in force. In case the second appeal is restored to file, the High Court shall endeavour to dispose of the second appeal at the earliest.

The appeal is accordingly allowed. There shall be no order as to costs.

.....,J.
(Dipak Misra)

.....,J.
(A.M. Khanwilkar)

.....,J.
(Mohan M. Shantanagoudar)

New Delhi;
July 10, 2017.

ITEM NO.6

COURT NO.2

SECTION XVI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 9450/2007

(Arising out of impugned final judgment and order dated 12-02-2007 in MJC No. 174/2007 passed by the High Court Of Patna)

KALAWATI DEVI .AND ORS. & ORS.

Petitioner(s)

VERSUS

RAM NARYAN CHAUHAN (D) BY LRS AND ORS. & ORS.

Respondent(s)

Date : 10-07-2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Petitioner(s) Mr. Ranjan Mukherjee, AOR
Mr. S.C. Ghosh, Adv.

For Respondent(s) Mohd. Irshad Hanif, AOR
Mr. Muzahid Ahmed, Adv.
Mr. Ghufraan Ahmad, Adv.

Ugra Shankar Prasad, AOR

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

Leave granted.

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

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master

(Signed order is placed on the file)