

## IN THE SUPREME COURT OF INDIA

## CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 8541-8542 OF 2018  
(Arising out of SLP (C) Nos. 15861-15862/2013)

GANPATI MISHRA

Appellant(s)

VERSUS

RAJMATI DEVI (DEAD) THR. LRS. &amp; ORS.

Respondent(s)

O R D E R

1) Leave granted.

2) A Suit was filed in the year 1999 by the respondent to cancel a Compromise Deed dated 20.08.1995. This Suit was dismissed ex-parte by the order dated 14.02.2002. An application to set aside the aforesaid order was dismissed, in default, on 09.10.2007. This was then recalled by an order dated 04.01.2008.

3) However, by an order dated 28.01.2008, it was stated that since there was no ex-parte order dated 10.12.2001, which was an obvious mistake, the application was ultimately dismissed. This typographical error of the date of the ex-parte order was then sought to be corrected by another application dated 08.07.2008. This was ultimately allowed by an order dated 08.01.2010 and the typographical mistake got corrected.

4) The revision against this order was dismissed. However, as against the order dismissing the revision, a Writ Petition that was filed was allowed by the Allahabad High Court stating that the

rejection of the first recall application was not on a technical ground but was on substantive ground and hence the Writ Petition was allowed setting aside the revisional order.

5) Though served and though a counter affidavit has been filed, none appears on behalf of the respondents.

6) We have heard learned counsel for the appellant who has argued that there is an obvious error in the judgment of the High Court in that first the rejection of the first recall application was only because of typographical error of the ex-parte order being stated to be dated 10.12.2001 instead of 14.02.2002.

7) Having seen the record, we are of the view that learned counsel for the appellant is correct.

8) In this view of the matter, we allow the appeals and set aside the impugned orders of the High Court.

9) Needless to add, the orders dated 08.01.2010 and 02.11.2010 will now operate.

..... J.  
(ROHINTON FALI NARIMAN)

..... J.  
(INDU MALHOTRA)

New Delhi;  
August 24, 2018.

ITEM NO.53 (Revised) COURT NO.8 SECTION XI

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

IA 111229/2018 in Petition(s) for Special Leave to Appeal (C)  
No(s). 15861-15862/2013

(Arising out of impugned final judgment and order dated 03-01-2013  
in CMWP No. 7723/2011 19-02-2013 in CMR No. 38179/2013 19-02-2013  
in CMWP No. 7723/2011 passed by the High Court Of Judicature At  
Allahabad)

GANPATI MISHRA Petitioner(s)

VERSUS

RAJMATI DEVI (DEAD) THR. LRS. & ORS. Respondent(s)

Date : 24-08-2018 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN  
HON'BLE MS. JUSTICE INDU MALHOTRA

For Petitioner(s) Mr. Rajiv Shankar Dvivedi, AOR  
Ms. Arti Dvivedi, Adv.  
Mr. Shushant Sarkar, Adv.

For Respondent(s) Mr. V. J. Francis, AOR (N.P.)

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

Leave granted.

The appeals are allowed in terms of the signed order.

Pending applications, if any, stand disposed of.

(R. NATARAJAN)  
COURT MASTER (SH)

(TAPAN KUMAR CHAKRABORTY)  
BRANCH OFFICER

(Corrected order is placed on the file)

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Appellant(s)

VERSUS

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Respondent(s)

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5) Though served and though a counter affidavit has been filed, none appears on behalf of the respondents.

6) We have heard learned counsel for the appellant who has argued that there is an obvious error in the judgment of the High Court in that first the rejection of the first recall application was only because of typographical error of the ex-parte order being stated to be dated 10.12.2002 instead of 14.02.2002.

7) Having seen the record, we are of the view that learned counsel for the appellant is correct.

8) In this view of the matter, we allow the appeals and set aside the impugned orders of the High Court.

9) Needless to add, the orders dated 08.01.2010 and 02.11.2010 will now operate.

..... J.  
(ROHINTON FALI NARIMAN)

..... J.  
(INDU MALHOTRA)

New Delhi;  
August 24, 2018.

ITEM NO.53

COURT NO.8

SECTION XI

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

IA 111229/2018 in Petition(s) for Special Leave to Appeal (C)  
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GANPATI MISHRA

Petitioner(s)

VERSUS

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CORAM :

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For Petitioner(s) Mr. Rajiv Shankar Dvivedi, AOR  
Ms. Arti Dvivedi, Adv.  
Mr. Shushant Sarkar, Adv.

For Respondent(s) Mr. V. J. Francis, AOR (N.P.)

UPON hearing the counsel the Court made the following  
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Leave granted.

The appeals are allowed in terms of the signed order.

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(R. NATARAJAN)  
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(Signed order is placed on the file)