

ITEM NO.39

COURT NO.14

SECTION IX

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

Petition(s) for Special Leave to Appeal (C) No(s).10892-10893/2018

(Arising out of impugned final judgment and order dated 21-02-2018 in SA No. 189/1988 18-01-2018 in MCA No. 233/2015 passed by the High Court Of Judicature At Bombay At Nagpur)

GULABRAO SINCE (D) BY LRS & ORS.

Petitioner(s)

VERSUS

SMT. SARASWATIBAI & ORS.

Respondent(s)

Date : 15-07-2019 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s) Mr. R. Basant, Sr. Adv.
Mr. Satyajit A. Desai, Adv.
Ms. Anagha S. Desai, AOR

For Respondent(s) Mr. Manoj Kumar Mishra, Adv.
Mr. Amol Nirmalkumar Suryawanshi, AOR

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. There shall be no order as to costs.

(GULSHAN KUMAR ARORA)
COURT MASTER

(R.S. NARAYANAN)
COURT MASTER

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 5612-5613 OF 2019
(Arising out of SLP (C) Nos. 10892-10893 of 2018)

Gulabrao Since (D) by LRS & Ors. ... Petitioners

VERSUS

Smt. Saraswatibai & Ors. ... Respondents

O R D E R

Leave granted.

Though the document Exhibit No. 73 is titled as "Receipt", it is virtually an agreement of sale, as is clear from the contents thereof. The intention of parties needs to be seen and not merely the format. Having regard to the said document at Exhibit No.73 wherein it is clearly stated that the possession is handed over in favour of the petitioner herein by virtue of agreement of sale of the property, the impugned order passed in review by the High Court dated 24.2.2018 is liable to be set aside. Since possession has been handed over to the petitioner pursuant to an agreement of sale, he is entitled to protect his possession under Section 53-A of the Transfer of Property Act.

Accordingly, the appeals are allowed. The impugned order passed in review is set aside. There shall be no order as to costs.

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

....., J.
(Sanjiv Khanna)

New Delhi;
July 15, 2019.