

ITEM NO.5

COURT NO.4

SECTION IV-A

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).12363/2019

(Arising out of impugned final judgment and order dated 06-03-2019 in SA No. 712/2018 passed by the High Court Of M.p At Gwalior)

LAXMIBAI @ LACHOBAI (DEAD) THROUGH LRS.

Petitioner(s)

VERSUS

JAIN SWETAMBAR MURTI PUJAK SANSTHAN KAMETI
SHRI CHINTAMANI PASVNATH JAIN SWETAMBER MANDIR

Respondent(s)

(FOR ADMISSION and I.R. and IA No.79627/2019-EXEMPTION FROM FILING O.T.)

Date : 15-05-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE SANJIV KHANNA
(VACATION BENCH)

For Petitioner(s)

Mr. Debasis Misra, AOR
Mr. Vishaal Jogdand, Adv.

For Respondent(s)

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

Heard learned counsel for the petitioners.

We find no grounds to interfere with the concurrent findings of the Trial Court and the First Appellate Court, as confirmed by the High Court in the Second Appeal. The petitioners have contended that the suit giving rise to this special leave petition is barred by principles of *res judicata* in view of an earlier suit being Suit No.359A/04. The principles of *res judicata* apply when the issues in an earlier suit are directly and substantially in

issue in the subsequent suit. We find that the earlier suit was for recovery of arrears and the present suit is for eviction on the ground of termination of their tenancy. We are, therefore, unable to accept the arguments advanced by the learned counsel appearing for the petitioners, that the subsequent suit was barred by *res judicata*.

The special leave petition is dismissed with the above observations.

However, at the request of learned counsel for the petitioners, the petitioners are granted six months' time from 1st June, 2019 to vacate the premises, in question, subject to filing of usual undertaking in this Court within two weeks from today.

As a sequel to the above, pending applications, if any, shall also stand disposed of.

(SUKHBIR PAUL KAUR)
AR CUM PS

(RAJ RANI NEGI)
ASSISTANT REGISTRAR