

ITEM NO.5

COURT NO.10

SECTION XVII

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). 24271/2012

(Arising out of impugned final judgment and order dated 20/04/2012 in AFOD No. 98/2003 passed by the High Court Of Jharkhand At Ranchi)

RITA LAL & ORS.

Petitioner(s)

VERSUS

YAMUNA DAS SHARDA (DEAD) THR. LRS.

Respondent(s)

(With appln. For appropriate Direction and exemption from filing O.T. and permission to raise additional grounds and file additional document and interim relief and office report)

Date : 07/02/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s)

Ms. Shobha, Adv.

Mr. Banny Mehra, Adv.

For Respondent(s)

Mr. S.N. Jha, Sr. Adv.

Mr. Jayesh Gaurav, Adv.

Mr. Shubhodeep Roy, Adv.

Mr. Farrukh Rasheed, Adv.

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.

(NEELAM GULATI)

COURT MASTER

(TAPAN KR. CHAKRABORTY)

COURT MASTER

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 2283 OF 2017
(Arising out of SLP(C) No. 24271 of 2012)

RITA LAL & ORS.

Appellant(s)

VERSUS

YAMUNA DAS SHARDA (DEAD) THR. LRS. Respondent(s)

O R D E R

Heard learned counsel for the parties.

Leave granted.

The appeal has been filed against the judgment and order passed by the High Court of Jharkhand at Ranchi on 20th April, 2012 in FA No. 98 of 2003 whereby the High Court set aside the judgment and decree dated 29th July, 2003 passed by the Subordinate Judge-VII, Ranchi in Title (Eviction) Suit No. 5 of 1992/2 of 2002. Aggrieved by the said judgment, respondent therein filed the appeal.

It is submitted by the learned counsel appearing for the appellant that the defendant-tenant, who was appellant in the High Court had died during the pendency of the appeal before the High Court and no application

for substitution to bring his legal heirs on record has been filed as such appeal stood abated.

Mr. S.N. Jha, learned senior counsel appearing on behalf of the respondent who is legal heir of the defendant-tenant, has submitted that the death of the defendant-tenant has taken place during the pendency of the appeal in the High Court. Considering the aforesaid submission, we are of the considered opinion that owing to the death of the sole appellant during the pendency of the appeal before the High Court lis had passed into state of suspense. As such no valid order on merits of appeal, in the eye of law, could have been passed by the High Court as such we set aside the judgment of the High Court and give liberty to the respondent to file appropriate applications, in accordance with law, for setting aside abatement, substitution and for condonation of delay before the High Court to pursue the appeal, deemed to be pending before it.

Accordingly the appeal is allowed to the aforesaid extent.

.....J
(ARUN MISHRA)

.....J
(AMITAVA ROY)