

ITEM NO.2+12

COURT NO.6

SECTION IV-B

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

SPECIAL LEAVE PETITION (CIVIL) Diary No.39204/2019
(Arising out of impugned final judgment and order dated 17-10-2018
in CR No.4453/2018 passed by the High Court Of Punjab & Haryana At
Chandigarh)

BHAG SINGH MALIK @ BHAL SINGH MALIK**Petitioner(s)****VERSUS****CHINMAYA TAPOVAN TRUST & ANR.****Respondent(s)**

(FOR ADMISSION and I.R.; IA No.171898/2019 - FOR CONDONATION OF
DELAY IN FILING; IA No.171895/2019 - FOR EXEMPTION FROM FILING C/C
OF THE IMPUGNED JUDGMENT; and, IA No.171899/2019 - FOR PERMISSION
TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP (C) No.20745/2019

(IA No.131376/2019 - FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT; IA No.165739/2019 - FOR PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES; and, IA No.130775/2019 - FOR PERMISSION
TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

MA No.1766/2019 in SLP(C) No.23762/2018 (IV-B)**(FOR ADMISSION; and, IA No.129080/2019 - FOR EXTENSION OF TIME)****Date : 04-12-2019 This matter was called on for hearing today.****CORAM :**

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MS. JUSTICE INDU MALHOTRA

Counsel for the Parties:**Mr. D. L. Chidananda, AOR**

Mr. P.S. Patwalia, Sr. Adv.
Ms. Natasha Dalmia, Adv.
Ms. Vanshdeep Dalmia, Adv.
Mr. Ashok Sharma, Adv.
Mr. Dhruv Sheorn, Adv.
Ms. Harshika Verma, Adv.

Mr. M.C. Dhingra, Adv.
Mr. Gaurav Dhingra, AOR
Mr. Vikrant Yadav, Adv.
Mr. Puneet Chugh, Adv.
Ms. Kandra Indira, Adv.
Mr. Piyush Kant Roy, AOR

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

In rent eviction proceedings initiated by Chinmaya Tapovan Trust ("the Trust", for short) against one Bhag Singh Malik alias Bhai Singh Malik, the eviction was ordered by the appellate authority vide its judgment and order dated 18.04.2018. While the matter was pending before the Appellate Authority, an application was filed by one Ms. Jaspreet Chinna and others submitting that they had interest in the property and claimed to be owners, and, therefore they be impleaded in the proceedings. That application was rejected by order dated 21.02.2018 and it appears that no further proceedings were taken by Ms. Jaspreet Chinna and others to challenge that order. The dismissal of their claim in rent eviction proceedings thus attained finality.

The order of eviction passed by the appellate authority was challenged by the tenant by filing Revision Petition No.4453 of 2018 (O&M) before the High Court, which was dismissed on 01.08.2018. Special Leave Petition (Civil) No.23762 of 2018 was filed in this Court by the tenant which came to be rejected by order dated 11.09.2018 passed by this Court as under:

"We see no reason to interfere.

The special leave petition is dismissed.

The petitioner is, however, granted time to vacate and deliver vacant physical possession to the respondent Trust on or before 30th June 2019, subject to filing usual undertaking within four weeks from today.

The usual undertaking shall also include a term that all the arrears as on date shall be paid to the respondent Trust and the petitioner shall continue to pay the monthly rent to the respondent Trust."

It must be stated that the usual affidavit of undertaking was filed by said Bhag Singh Malik on 05.10.2018 undertaking that he would handover the vacant and peaceful possession of the premises to the Trust on or before 30.06.2019.

While said rent eviction proceedings were going on, certain proceedings were initiated, namely:

(i) Civil Suit (OS) No.7664/13 was filed on 29.01.2007 by one Yashpal Singh Chinna submitting that by virtue of an unregistered Will dated 08.01.2017 executed by the owner Picky Panwar, he had become owner of the property in question. One of the defendants to the suit was Trust itself.

After the death of said Yashpal Singh Chinna, Ms. Jaspreet Chinna and other heirs of Yashpal Singh Chinna were substituted in his place.

This suit was dismissed by the Trial Court vide judgment and order dated 26.02.2015 holding *inter alia* that the will on the basis of which the suit was filed, was not proved.

The decision of the Trial Court was challenged by by Ms. Jaspreet Chinna and her son Gursheer Singh by filing Civil Appeal No.2280 of 2015 in the Court of District Judge, Chandigarh. Said appeal was however dismissed for default on 08.08.2017.

Another appeal filed by one of the heirs Ishwak Singh was also dismissed subsequently.

These orders of dismissal were never put in further challenge and attained finality.

- (ii) In 2008, Civil Suit (OS) No.17697 of 2008 was filed by one Sanjay Kumar (stated to be an Estate Agent) against Yashpal Singh Chinna and the Trust and others, claiming *inter alia* that said Sanjay Kumar had become owner of the property by virtue of an unregistered Will dated 15.01.2007 executed by said Ms. Picky Panwar in his favour.

In said suit, a counter claim was raised by the Trust that in view of a Registered Will in its favour executed on 04.12.2006, the Trust had become complete owner of the property. This suit was dismissed on 22.07.2014 but counter claim of the Trust was decreed. It was held by the Trial Court that the will propounded by the Trust was genuine.

Order of the Trial Court was challenged by Sanjay Kumar by filing Civil Appeal No.341 of 2014. During the pendency of the appeal, said Mr. Yashpal Singh Chinna expired and pursuant to an application for substitution moved by Sanjay Kumar, heirs of Mr. Yashpal Singh Chinna, namely, Ms. Jaspreet Chinna and others were substituted in place of Mr. Yashpal Singh Chinna.

Civil Appeal No.341 of 2014 was also dismissed on 19.09.2015 by Addl. District Judge, Chandigarh, which order was later challenged by Sanjay Kumar by filing a Regular Second Appeal No.2047 of 2016, which was disposed of as withdrawn on 23.03.2017.

All these developments had occurred before finality was attained in the rent eviction proceedings initiated by the Trust. However, after the order passed by the appellate Court in rent eviction proceedings on 21.02.2018, a fresh suit being Civil Suit No.466 of 2018 came to be filed by heirs of Mr. Yashpal Singh Chinna, namely, Ms. Jaspreet Chinna and others on 13.03.2018. It was submitted *inter alia* that the decrees passed by the concerned Courts in Suit filed by Sanjay Kumar and decree on counter claim were bad and inoperative against said plaintiffs.

An application for interim relief was filed in that Suit submitting *inter alia* that the tenant Bhag Singh Malik be allowed to continue to be in the property. The application was rejected by the Trial Court vide order dated 31.05.2019, which order is subject matter of challenge in SLP (Civil) No.20745 of 2019.

On 30.08.2019, SLP (C) No.20745 of 2019 filed by Ms. Jaspreet Chinna along with M.A. No.1766 of 2019 in the disposed of SLP (Civil) No.23762 of 2018 filed by the tenant came up before this Court and following order was passed:

"SLP (C) No.20745 of 2019

"Issue notice, returnable on 30.09.2019.

In the meantime, the petitioners shall place on record the affidavit indicating complete details as to what steps they had undertaken after they came to know of the *ex-parte* decree passed against them.

MA No.1766 of 2019 in SLP (C) No.23762/2018

Issue notice, returnable on 30.09.2019.

Pending further consideration, the applicant shall not be required to hand over the possession to the Respondent-Chinmaya Tapovan Trust and shall continue to be in possession of the premises."

Pursuant to the above order, an affidavit of compliance has been filed and reading of that affidavit shows that there was no compliance of the direction issued by this Court.

The facts thus *prima facie* indicate that:

(a) the property admittedly belonged to one Picky Pawar;

(b) the Trust claims to be the owner of the property by virtue of a registered Will dated 04.12.2006 executed in its favour by said Picky Pawar;

(c) the claim raised by the Trust in that behalf by way of a counter claim in Civil Suit (OS) No.17697 of 2008 was accepted by the Court and such declaration attained finality;

(d) on the other hand, the claim to the property by Yashpal Singh Chinna on the basis of an unregistered Will was negated and that decision has also become final;

(e) another Suit filed by one Sanjay Kumar on the basis of yet another unregistered Will was also rejected; and

(f) the attempts by Ms. Jaspreet Chinna and heirs of Yashpal Singh Chinna to intervene in the eviction proceedings initiated by the Trust were also unsuccessful.

Even then, at this stage, we are not making any final pronouncement and would give parties time and opportunity to agitate the issues. However, considering the fact that

affidavit of undertaking was given to this Court which as of now is not getting complied with, partly for the reason that an order was passed by this Court on 30.08.2019, we direct Bhag Singh Malik to vacate and handover peaceful possession of the property to the Trust on or before 31.12.2019.

It is made clear that any violation of our order will be considered as amounting to contempt of this Court and will be viewed very seriously.

Needless to say that till disposal of these matters, the Trust shall continue to be in possession of the property purely in the capacity as Court Receiver.

List these matters for further consideration on 11.02.2020.

(MUKESH NASA)
COURT MASTER

(SUMAN JAIN)
BRANCH OFFICER