

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE/INHERENT JURISDICTION

CIVIL APPEAL NO.19940/2017

LALIT KUMAR BAGLA AND ORS

Appellant(s)

VERSUS

RAJIV KUMAR PODDAR AND ORS

Respondent(s)

WITH

CONMT.PET.(C) No.961/2021 in CIVIL APPEAL NO.19941/2017

CIVIL APPEAL NO. 19941/2017

CIVIL APPEAL NO. 19943/2017

CIVIL APPEAL NO. 19942/2017

O R D E R

These appeals by Special Leave arise out of the judgment and order dated 20.05.2016 passed by the Division Bench of the High Court of Judicature at Calcutta in APD No.501-503 of 2015 and APO No.46 of 2016.

The basic facts as set out in the judgment under appeal are as under:

"Sometime in 1987, Smt. Sarada Devi Poddar, one of the heirs of the original lessee filed Title Suit No. 133 of 1987 in the Court of the 5th Munsif, Howrah for eviction of Patel Timber Industries from the, said premises.

Patel Timber Industries filed a written statement in the said suit, claiming protection against eviction, by recourse to the provisions of the Thika Tenancy Act of 1981. By a judgment dated 20th May, 1992 the learned 5th Civil Judge held that Patel Timber Industries was a 'thika tenant' and dismissed the suit as not maintainable.

Smt. Sarada Devi Poddar filed an appeal being Misc.

Appeal No. 150 of 1992 against the aforesaid judgment and Order dated 20th May, 1992 in the Court of the learned District Judge, Howrah. The said appeal was allowed by the District Judge, Howrah by a judgment and Order dated 5th April, 1992.

Patel Timber Industries filed a Civil Revisional Application being C.O. No. 1912 of 1999 in this Court against the order of the District Court. By a judgment and Order dated 18th September 2001, this Court set aside the judgment and order of the District Judge, Howrah on the ground that no appeal lay from the judgment and Order dated 20th May, 1992, declaring Patel Timber Industries as a 'thika tenant'. Liberty was however given to the Poddars to file a Civil Revisional Application, challenging the judgment and Order dated 20th May, 1992 of the learned Civil Judge.

It is not in dispute that the Poddars neither challenged the order of this Court before any higher forum, nor filed any revisional application challenging the judgment and order of the learned Munsif as per the leave granted by this Court. The order of the learned Civil Judge passed on 20th May, 1992 has assumed finality .

In 1990 Poddars filed a suit against the Baglas being Title Suit No. 240 of 1990 praying inter alia for Specific Performance of the contract between the Baglas and the Poddars, which provided for renewal of the lease. The suit was later transferred to this Court and numbered as Extraordinary Suit No. 4 of 2003.

On or about 20th August, 1991, the Baglas filed a suit being Title Suit No. 232 of 1991 in the Howrah Court against the Poddars for eviction on the ground of expiry of lease. Patel Timber Industries or other sub-tenants and/ or persons inducted by the Poddars were not impleaded parties to the suit. The said suit was also transferred to this Court and re-numbered as Extraordinary Suit No. 3 of 2003.

On or about 30th June, 2005 the suit filed by the Baglas being E.O.S. No. 3 of 2003 against the Poddars for recovery of possession was dismissed. The suit filed by the Poddars being E.O.S. No. 4 of 2004 succeeded.

The Baglas filed two appeals before the Division Bench of this Court, which were disposed of in favour of the Baglas, by a judgment and Order dated 11th August, 2010. The Division Bench decreed the suit for eviction against the Poddars."

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"The Baglas filed an application being EC No.90 of 2011 in this Court for execution of the eviction decree against the Poddars. By an Order dated 8th March 2011, the learned Single Bench of this Court appointed a Receiver over the said premises with a direction on the Receiver to take symbolical possession of the said premises.

Pursuant to the aforesaid Order dated 8th March, 2011 of this Court, the learned Receiver pasted a notice on the entrance gate of the said premises whereupon. Patel Timber Industries moved the intervention application being G.A. No. 1034 of 2011 in the said intervention case, which has been dismissed by the judgment and Order dated 23rd September, 2015 under appeal. As observed above other sub-tenants and/ or sub-lessees inducted by the Poddars similarly circumstanced as Patel Timber Industries, also filed intervention applications, which have been dismissed."

While accepting the case of M/s Patel Timber Industries (the applicant, for short), the Division Bench of the High Court observed that the final order passed by the Thika Controller dated 23.09.2015 being subsisting, the applicant was entitled to resist dispossession and execution of a decree obtained by the Baglas against the Poddars and the applicant was entitled to claim an independent right to remain in possession of the premises in question.

The instant appeals take exception to the determination made by the Division Bench of the High Court.

Heard Mr. Anjani Kumar Mishra, learned advocate in support of the appeals and Mr. Rana Mukherjee, learned Senior Advocate for the applicant.

As observed by the Division Bench in the judgment under appeal, after the declaration in favour of the applicant, a direct relationship stood established between the State of West Bengal on one part and the applicant on the other.

It has further been observed that the applicant as occupier has deposited tax with Municipal Authorities.

Considering the entirety of the circumstances on record, we see no reason to take a different view in the matter. We affirm the view taken by the Division Bench of the High Court and dismiss the instant appeals without making any order as to costs.

In view of the dismissal of appeals, no separate orders are called for in the Contempt Petition which is accordingly closed.

Pending applications, if any, shall stand disposed of.

.....J.
[UDAY UMESH LALIT]

.....J.
[S. RAVINDRA BHAT]

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

New Delhi;
May 4, 2022.

ITEM NO.4

COURT NO.2

SECTION XVI

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

Civil Appeal No(s). 19940/2017

LALIT KUMAR BAGLA AND ORS

Appellant(s)

VERSUS

RAJIV KUMAR PODDAR AND ORS

Respondent(s)

WITH

CONMT.PET.(C) No. 961/2021 in C.A. No. 19941/2017 (XVI)
(IA No.135877/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT)

C.A. No. 19942/2017 (XVI)

C.A. No. 19941/2017 (XVI)
(IA No. 92487/2021 - EARLY HEARING APPLICATION)

C.A. No. 19943/2017 (XVI)

Date : 04-05-2022 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA

For Appellant(s) Mr. Anjani Kumar Mishra, AOR
Ms. Hardeep Mishra, Adv.
Ms. Rohini Prasad Tiwari, Adv.
Mr. Praveen Mishra. Adv.
Mr. Shiv Ram Pandey. Adv.

For Respondent(s) Mr. James P. Thomas, AOR
Mr. Prashant Dwivedi, Adv.

Mr. Rana Mukherjee, Sr. Advocate
Mr. Partha Sil, AOR
Mr Tavish Bhushan Prasad, Advocate
Ms. Surabhi Galleria, Advocate
Ms. Ondrilla Sen, Advocate

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

**The appeals are dismissed and Contempt Petition is closed in
terms of the signed order.**

Pending applications, if any, shall stand disposed of.

**(INDU MARWAH)
COURT MASTER (SH)**

**(PREETHI T.C.)
BRANCH OFFICER**

(SIGNED ORDER IS PLACED ON THE FILE)