

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

SPECIAL LEAVE PETITION (CIVIL) Diary No(s).42639/2017

(Arising out of impugned final judgment and order dated 14-09-2017 in TAC No.408/2016 passed by the High Court Of Judicature At Allahabad)

DEVENDRA NATH GOSWAMI & ORS. Petitioner(s)

VERSUS

VINOD BEHARI GOSWAMI & ORS. Respondent(s)

Date : 26-12-2017 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s) Mr. Aseem Chandra, Adv.
Mr. Farrukh Rasheed, Adv. [AOR]
Mr. Meenesh Dubey, Adv.
Mr. Shailender K. Mishra, Adv.
Mr. Sharad Prakash Pandey, Adv.
Mr. Zahid Hussain, Adv.

For Respondent(s) --

UPON hearing the counsel the Court made the following
O R D E RI.A.No.142138 of 2017

Application for permission to file Special Leave Petition is allowed.

I.A. stands disposed of.

S.L.P.(C)No. Of 2017 (D.No.42639 of 2017)

Delay condoned.

Heard Mr. Aseem Chandra, learned counsel for the petitioners.

It is submitted by him, the High Court has erroneously transferred Original Suit No.156 of 1938 (Onkar Nath & Ors. v. Phundi Lal & Ors.) to District Hathras with a further stipulation that the learned District Judge, Hathras shall assign the matter to

a Civil Judge (Junior Division). According to him, the said Suit has been decreed on 31.03.1939 and a scheme which has been formed in pursuance of the judgment of the Civil Court, is in vogue.

Learned counsel would further submit, the petitioners were not parties before the High Court. They are *Goswamis* engaged in *sewa* as per the scheme framed in the decree passed in the Suit.

In view of the aforesaid submission, we grant liberty to the petitioners to file an application for recall/modification of the impugned order dated 14.09.2017, before the High Court of Judicature at Allahabad in Transfer Application (Civil) No.408 of 2016.

We direct the Registrar General of the High Court to place our order before the learned Chief Justice of the High Court of Allahabad so that he can pass appropriate orders on the application for recall/modification which has been permitted to be filed before the High Court. We would request the High Court to take up the matter by 10th January 2018.

As the impugned order pertains to transfer of Original Suit No.156 of 1938, we are only inclined to direct that the said transfer shall be kept in abeyance till the High Court disposes of the application for recall/modification filed by the petitioners.

We may hasten to add, we have not expressed any opinion on the merits of the case.

The Special Leave Petition stands disposed of accordingly.

(Subhash Chander)
AR-cum-PS

(Jagdish Chander)
Court Master

N.B. : Copy of the order, if applied for, be given today itself.