

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.267/2020
[@ SLP [C] NO.185/2016]

MADAN AND ANR.

Appellant(s)

VERSUS

SUB DIVISIONAL OFFICER BABERU AND ORS.

Respondent(s)

O R D E R

Leave granted.

The appellants before us claim transferable rights as *Bhumidars* on account of the order of the Consolidation Officer dated 25.04.1979 passed *ex parte*. The controversy revolves around this order as according to the respondents the very land in question was allotted on the recommendation of the Village Management Committee (*Gaon Sabha*) to landless person as *Pattedars* for agricultural purposes vide order dated 12.05.1990.

A number of proceedings have emanated thereafter with the appellants, the *Pattedars* and the *Gaon Sabha* having their own say on the issue in question. Suffice to note that this order dated 25.04.1979 was set at naught by order dated 30.10.1993 and thereafter also various proceedings ensued where practically all of them went against the appellants.

The matter came to the Madhya Pradesh High Court vide Writ Petition No.39114/1996 when it was deemed appropriate that an application should be filed by the appellants for recall of the order dated 30.10.1993. Such an order was passed by the High Court on 18.04.2013. Thereafter the respondents' application filed on various stages did not meet with success as that application was

dismissed, the revision filed thereafter also met the same fate on 30.07.2015 and consequently the appellants filed a Writ Petition[C] No.60586/2015 assailing that order.

The High Court adopted a course of remitting the parties to a civil suit or an appellate forum whichever was available - a course of action which we find not acceptable having heard learned counsel for the parties.

The order having been passed in the revisionary jurisdiction, no appeal is maintainable. The Court was required to take a view whether the decision on the application and the revisionary order was sustainable in law or not. Unfortunately, no such finding has been rendered.

We are thus, of the view that the controversy would have to be examined on merits by the High Court and thus, we are constrained to set aside the order dated 29.10.2015 and remit the matter back to the High Court for consideration on merits after hearing all the stakeholders.

The appeal is accordingly allowed leaving the parties to bear their own costs.

..... J.
[SANJAY KISHAN KAUL]

..... J.
[K.M. JOSEPH]

NEW DELHI;
JANUARY 14, 2020.

ITEM NO.6

COURT NO.12

SECTION III-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 for Special Leave to Appeal (C) No.185/2016

(Arising out of impugned final judgment and order dated 29-10-2015 in CMW No.60586/2015 passed by the High Court of Judicature at Allahabad.)

MADAN & ANR.

Appellant(s)

VERSUS

SUB DIVISIONAL OFFICER BABERU AND ORS.

Respondent(s)

Date : 14-01-2020 This petition was called on for hearing today.
CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE K.M. JOSEPH

For Appellant(s) Mr. Pramod Swarup, Sr. Adv.
Ms. Pareena Swarup, Adv.
Mr. Ameet Singh, Adv.
Ms. Pooja Sharma, Adv.
Mr. Ravinder Singh, Adv.
Mr. Praveen Swarup, AOR

For Respondent(s) Mr. Tanmaya Agarwal, AOR
Mr. Wrick Chatterji, Adv.

Mr. Vishwa Pal Singh, AOR

Mr. Omkar Shrivastava, Adv.
Mr. Divyadeep Chaturvedi, Adv.
Mr. Rameshwar Prasad Goyal, AOR

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.

Pending application, if any, stands disposed of.

(ASHA SUNDRIYAL)
COURT MASTER

(ANITA RANI AHUJA)
COURT MASTER

[Signed order is placed on the file]

