

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 17975 OF 2017

(Arising out of S.L.P. (C) No. 11944/2017)

NEELAM RANI GANDHI AND ANOTHER

Appellant (s)

VERSUS

THE STATE OF MADHYA PRADESH & ORS.

Respondent(s)

O R D E R

1) Leave granted.

2) Having heard the learned counsel appearing for the parties, we are of the view that the judgment of the Single Judge dated 27.07.2015 has correctly appreciated the law when the learned Single Judge, after setting out the relevant Sections states as under:

"In the instant case, the Collector has treated the deed of relinquishment to be a sale deed and has directed the petitioners to pay the deficit duty. In other words, the Collector while passing the impugned order has determined the nature of the document, which is impermissible in law. It is well settled in law that stamp duty is leviable on the instrument and not on the transaction. [See: Shiv Kumar Saxena & Others vs. Manishchand Sinha and Another, 2004 (II) MPJR 269]. Thus, the order passed

by the Collector is *per se* without any jurisdiction. Therefore, the contention made on behalf of respondents that petitioners should be relegated to avail of the alternative remedy under sections 47-A (4) & (5) of the Act does not deserve acceptance."

3) In this view of the law, we are of the view that the Division Bench ought not to have set aside the Single Judge's judgment.

4) Accordingly, the appeal is allowed.

..... J.
(ROHINTON FALI NARIMAN)

..... J.
(SANJAY KISHAN KAUL)

New Delhi;
November 03, 2017.

ITEM NO.50

COURT NO.11

SECTION IV-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(s) for Special Leave to Appeal (C) No(s). 11944/2017

(Arising out of impugned final judgment and order dated 31-01-2017 in WA No. 184/2016 passed by the High Court Of M.p Principal Seat At Jabalpur)

NEELAM RANI GANDHI AND ANOTHER

Petitioner(s)

VERSUS

THE STATE OF MADHYA PRADESH & ORS.

Respondent(s)

Date : 03-11-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

For Petitioner(s) Mr. Amalpushp Shroti, AOR

For Respondent(s) Mr. Sunny Choudhary, Adv.
Mr. Arjun Garg, 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 applications, if any, stand disposed of.

(R. NATARAJAN)
COURT MASTER (SH)

(SAROJ KUMARI GAUR)
COURT MASTER

(Signed order is placed on the file)