

ITEM NO.4

COURT NO.4
(HEARING THROUGH VIDEO CONFERENCING)

SECTION IV-A

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.14792/2020

(Arising out of impugned final judgment and order dated 02-12-2019 in SA No.595/2004, 02-12-2019 in SA No.138/2005, 17-02-2020 in REVP No.52/2020 passed by the High Court Of Chhatisgarh At Bilaspur)

ONKAR BAI (D) THROUGH LRS

Petitioner(s)

VERSUS

SHAMBHU SAHU (D) THROUGH LRS

Respondent(s)

(FOR ADMISSION and I.R.; IA No.85650/2020 - FOR CONDONATION OF DELAY IN FILING; and, IA No.85651/2020 - FOR EXEMPTION FROM FILING O.T.)

Date : 24-09-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE AJAY RASTOGIFor Petitioner(s) Mr. Gagan Gupta, AOR.
Mr. Padmesh Mishra, Adv.

For Respondent(s)

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

Insofar as the observations made by the High Court in paragraphs 15 and 16 of the judgment under challenge are concerned, Mr. Padmesh Mishra, learned Advocate has submitted:

"a. Exhibits P2, P3 and P4 were held by the First Appellate Court to be ineffective as is evident from Paragraph 18 of the judgment of the First Appellate Court;

- b. The finding of fact as recorded could not have been set-aside in a Second Appeal to give a declaration with respect to Schedule 'A';
- c. The observation that the assertion made by Fagni Bai in respect of Schedule 'A' property was not challenged by the petitioner, by filing a counter claim or raising cross-objection is incorrect. A specific plea was taken in Para 6-A of the written statement (Pages 71 and 72 of the paperbook); and
- d. As regards Schedule 'B' property, the finding is that the father of the petitioner had leased it out to the plaintiff but the declaration which was sought and now stands granted is about ownership with respect to property mentioned in Schedule 'B'."

Delay condoned.

Issue notice, returnable on 26.10.2020.

Dasti service, in addition, is permitted.

Pending further consideration, the parties shall maintain *status quo* as on date with regard to the suit properties.

(MUKESH NASA)
COURT MASTER

(PRADEEP KUMAR)
BRANCH OFFICER