

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).10293/2006

(From the judgement and order dated 02/05/2006 in AN No. 871/2005 in NM No. 120/2005 in PN

No.561/2005 of The HIGH COURT OF BOMBAY)

ANIB ANTHONY D'MONTE

Petitioner(s)

VERSUS

YASMEEN FAKIR MOHD. SHAIKH & ORS.

Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned Judgment and prayer for interim relief and

office report)

Date: 30/06/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE Dr. JUSTICE AR. LAKSHMANAN

HON'BLE MR. JUSTICE ALTAMAS KABIR

(VACATION BENCH)

For Petitioner(s)

Mr. M.N. Rao, Sr. Adv.

Mr. P.N. Gupta, Adv.

Mr. D.A. Joseph, Adv.

Mr. Ambrish Kumar, Adv.

For Respondent(s)

Mr. Prabhjit Jauhar, Adv.

Mr. Harish Mehta, Adv.

Mr. S.S. Jauhar, Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard Mr.M.N.Rao, learned senior counsel for the petitioner and Mr.Prabhjit Jauhar,

learned

counsel for the respondents.

We have perused the pleadings, the order impugned in this Special Leave Petition and other

connected records. There is absolutely no warrant for any interference with the order passed by the

Division Bench of the High Court. We, therefore, dismiss this Special Leave Petition.

SLP(C) No.9405/2005 was filed by the various petitioners before this Court questioning the

correctness of the final order dt.08.04.2005 of the High Court in FA No.697 of 1997. Upon hearing

the counsel for the petitioner and the respondent, this Court passed the following order :-

"We find no merit in the Special Leave Petition and the same is accordingly, dismissed.

However, with the consent of the counsel for the respondent, the petitioner is granted

three months time to vacate the premises subject to his furnishing usual undertaking

within four weeks."

It is stated that though three months' time was granted to the petitioner to vacate the premises

subject to furnishing of usual undertaking, no undertaking was filed in this Court as directed by this

Court. It appears that as an attempt to avoid the compliance of this Court's Order, the petitioner

filed a petition for probate. Interim order was granted. Thereupon, in appeal the Single-Judge order

was set aside. We, therefore, direct the petitioner-herein to hand over peaceful possession of the

premises in question on the 1st floor of the House No.43-B, Chapel Road, Bandra, Mumbai-50 by

31.07.2006. If peaceful vacant possession is not granted, the respondent will be at liberty to seek the

help of the police to vacate the premises.

We make it clear that this order will not, in any way, prejudice the parties from prosecuting the

proceedings in probate and suit initiated by them in the courts below.

(Satish K.Yadav)
olan Wati Arora)

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Court Master
Court Master