

# Abhay Raj (Dead) Thr. Lr. Narendra ... vs Ram Shiromani . on 27 January, 2020

**Bench: S. Abdul Nazeer, Sanjiv Khanna**

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 940 OF 2020

(ARISING OUT OF SPECIAL LEAVE PETITION (CIVIL) NO. 35272 of 2016)

ABHAY RAJ (DEAD)  
PRATAP SINGH

THR. LR. NARENDRA

...  
APPLICANT(S)

VERSUS

RAM SHIROMANI AND OTHERS

... .RESPONDENT(S)

O R D E R

Leave granted.

2. The impugned judgment dated 10.08.2016 passed by the Lucknow Bench of the Allahabad High Court allows the Writ Petition filed by Ram Shiromani, the first respondent before us, setting aside the order dated 20.10.2003 in Revision Petition No. 183/1861, observing that the Deputy Director of Consolidation, Sultanpur who had passed the order had erred in reviewing or recalling his earlier order dated 28.11.2002 though no such power has been conferred upon him under the U.P. Consolidation of Holdings Act, 1953.

3. Aggrieved by the order passed by the High Court, the legal representatives of Abhayraj have filed the present appeal for restoration of the order dated 20.10.2003 passed by the Deputy Director stating inter alia that the order passed by the High Court has created utter confusion as it unsettles the consolidation proceedings against the interest of various allottees, an aspect which has been completely overlooked and not taken into consideration by the High Court.

4. During the course of hearing, learned counsel for the contesting respondent could not dispute that the impugned order dated 10.08.2016 passed by the High Court while setting aside the order dated 20.10.2003 and restoring the order dated 28.11.2002 of the Deputy Director, has not dealt with and examined the contentions raised by the appellant on the purported effect of the direction on the consolidation proceedings. More important and what has weighed with us to pass an order of

remit is another aspect. The Deputy Director had recalled/reviewed his order dated 28.11.2002 on an application filed by Sumiran, son of Vishram who was allotted the chak originally held by Abhayraj, on the ground that Vishram had expired ten years back and he being his legal heir had neither received any notice nor made a party in the Revision Petition 183/1861, though the chak allotted to his deceased father was affected by the order. The aforesaid factual position has not been disputed before us. In this background, the High Court should have directed the Deputy Director to pass a fresh order after hearing the parties.

5. This being the position, we would allow the present appeal by restoring the matter to the Deputy Director of Consolidation, Sultanpur who would decide the Revision Petition No. 183/1861 entitled Ram Shiromani v. Abhayraj etc. afresh on merits after hearing all the affected parties and without being influenced by the earlier orders. To cut short delay, the parties are directed to appear before the Deputy Director of Consolidation on 16.03.2020 when a further date of hearing will be fixed. We would clarify that we have not decided and given final findings on merits and the observations made in the above order are only for the purpose of disposing the present appeal. There would be no order as to costs.

....., J.

(S. ABDUL NAZEER) ....., J.

(SANJIV KHANNA) NEW DELHI;

JANUARY 27, 2019.

ITEM NO.32

COURT NO.13

SECTION XI

S U P R E M E C O U R T O F  
RECORD OF PROCEEDINGS

I N D I A

Petition(s) for Special Leave to Appeal (C)

No(s). 35272/2016

(Arising out of impugned final judgment and order dated 10-08-2016 in WP No. 445/2004 passed by the High Court Of Judicature At Allahabad, Lucknow Bench) ABHAY RAJ (DEAD) THR. LR. NARENDRA PRATAP SINGH Petitioner(s) VERSUS RAM SHIROMANI & ORS. Respondent(s)  
Date : 27-01-2020 This petition was called on for hearing today. CORAM :

HON'BLE MR. JUSTICE S. ABDUL NAZEER HON'BLE MR. JUSTICE SANJIV  
KHANNA For Petitioner(s) Mr. V.B. Yadav, Adv.

Mr. Subrat Birla, Adv.

Mr. S. C. Birla, AOR For Respondent(s) Mr. Vishwajit Singh, AOR Mr. Pankaj Singh,  
Adv.

Ms. Vijaya Singh, Adv.

Mr. S. Chauhan, Adv.

Mr. Vignesh Singh, Adv.

UPON hearing the counsel the Court made the following O R D E R Leave granted.

The appeal is allowed of in terms of the signed order. Pending applications, if any, are disposed of.

(NEELAM GULATI)  
COURT MASTER (SH)

(RAJINDER KAUR)  
BRANCH OFFICER

(Signed Order is placed on the file)