

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 10128 OF 2018
(Arising out of SLP (C) No. 20052/2018)

M/S PRIME PROPERTIES

Appellant(s)

VERSUS

**M/S BHAGYA NAGAR PLOT OWNERS WELFARE ASSOCIATION
& ORS.**

Respondent(s)

O R D E R

- 1) Leave granted.
- 2) The present proceedings arise out of a Suit filed for dissolution of Respondent No.3-firm by Respondent No.2. A preliminary decree dated 27.09.2000 was passed in this Suit and the receiver already appointed shall take over all properties that belong to the firm.
- 3) One of the properties so taken over by the said receiver is Survey No. 1007, Kukatpally Village & Mandal, Medchal-Malkajgiri District, Telangana State.
- 4) The appellant-M/s Prime Properties before us filed an I.A. in 2004 under Order 21 Rule 52 of CPC to release this property which, according to the appellant, was under its ownership and not that of the firm. This I.A. was disposed of by an order dated 22.11.2004 stating that the I.A. under Order 21 Rule 52 was not maintainable for various reasons and that it was barred by limitation.

5) In a Civil Revision Petition against this order in which Respondent No.1 was *ex-parte*, by an order dated 20.03.2009, the High Court reversed the order dated 22.11.2004 and went wholly in favour of the appellant adding that the appellant alone had title to the property and the respondent had no title and, therefore, the receiver was ordered to release the property in favour of the appellant.

6) Not being satisfied with this order, a Review Petition was filed which review was then allowed by the impugned order dated 23.02.2018 on various grounds. Ultimately, the Review Petition succeeded and the order dated 20.03.2009 was recalled as a result of which the order dated 22.11.2004 became operative against the parties.

7) Having heard learned Senior Counsel appearing on all sides, we are of the view that that at least one thing is clear and that is that the partnership firm was not the owner of the aforesaid property. Therefore, the High Court was not correct in thereafter going into the merits as to ownership, which is pending in several proceedings between the parties. We, therefore, set aside the orders dated 23.02.2018, 20.03.2009 as well as the order dated 22.11.2004.

8) We have been informed of the various proceedings between the parties, as mentioned hereinabove, including suits, pending between the parties. This being the case, we direct that status *quo* with regard to possession, as of today, shall continue until further orders are made in these proceedings at the behest of any of the parties.

9) The appeal is disposed of accordingly.

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

..... J.
(INDU MALHOTRA)

New Delhi;
October 01, 2018.

ITEM NO.6

COURT NO.8

SECTION XII-A

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 (C) No(s). 20052/2018

(Arising out of impugned final judgment and order dated 23-02-2018 in RCRP No. 4638/2017 passed by the High Court Of Judicature At Hyderabad For The State Of Telangana And The State Of Andhra Pradesh)

M/S PRIME PROPERTIES

Petitioner(s)

VERSUS

M/S BHAGYA NAGAR PLOT OWNERS WELFARE ASSOCIATION
 & ORS.
 (FOR ADMISSION and I.R.)

Respondent(s)

Date : 01-10-2018 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
 HON'BLE MS. JUSTICE INDU MALHOTRA

For Petitioner(s)	Mr. Shyam Diwan, Sr. Adv. Mr. Y. Raja Gopala Rao, AOR Ms. Y. Vismai Rao, Adv. Mr. K. Sharat Kumar, Adv. Ms. M. Yashashvi, Adv. Mr. M. Srinivas, Adv.
For Respondent(s)	Mr. Ajit Kumar Sinha, Sr. Adv. Mr. S.B. Upadhyay, Sr. Adv. Mr. A.C. Pradhan, Sr. Adv. Mr. Dhruv Kumar Jha, Adv. Mr. Kiran Kumar Jaipurkar, AOR Mr. G. Ramakrishna Prasad, AOR Mr. Suyodhan Byrapaneni, Adv. Mr. Mohd. Wasay Khan, Adv. Ms. Filza Moonis, Adv. Ms. Kiran Suri, Sr. Adv. Mr. Mullanpudi Rambabu, Adv. Ms. Vijayshree Pattnayak, Adv. For M/s. M. Rambabu And Co., AOR Ms. Priyanjali Singh, AOR Mr. Rahul Rathore, Adv. Mr. karunesh Kumar Shukla, Adv.

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

Leave granted.

The appeal is disposed of in terms of the signed order.

Pending applications, if any, also stand disposed of.

(R. NATARAJAN)
COURT MASTER (SH)

(TAPAN KUMAR CHAKRABORTY)
BRANCH OFFICER

(Signed order is placed on the file)