

ITEM No. 1A
(For Judgment)

Court No. 6

SECTION IVB

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

CIVIL APPEAL NO. OF 2014 @ SLP(C) No. 15481 of 2008

BIRBAL

Appellant (s)

VERSUS

HARYANA STATE AND ORS.

Respondent (s)

Date : 25/02/2014 This Petition was called on for judgment today.

For Appellant (s) Dr. Kailash Chand, Adv.

For Respondent(s) Mr. Manjit Singh, AAG,
Ms. Nupur Chaudhary, Adv.
Mr. Kamal Mohan Gupta, Adv.

Ms. Naresh Bakshi, Adv.

Hon'ble Mr. Justice C.Nagappan pronounced
Judgment of the Bench comprising Hon'ble Mr. Justice
T.S.Thakur and His Lordship.

Leave granted.

The appeal is disposed of in terms of the signed
non-reportable judgment.

The appellant shall deposit the sale price of a
sum of Rs.3,94,108/- with Respondent No.1 in six
installments. The first installment of Rs.94,108/- shall
be deposited on or before 30.4.2014. The balance amount

of Rs.3 lacs shall - be deposited in five installments of Rs.60,000/- each at an interval of two months so as to complete the entire process by the end of February 2015. Upon such deposit the suit shall stand decreed in his favour; in case of default in payment of the installments the appeal shall stand dismissed without further reference to this Court.

(Shashi Sareen)
Court Master

(Veena Khera)
Court Master

Signed Non-Reportable judgment is placed on the file.

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2847 OF 2014[Arising out of Special Leave Petition (Civil) No.15481 of
2008]

Birbal	..	Appellant
	versus	
Haryana State & Ors.	..	Respondent (s)

J U D G M E N TC. NAGAPPAN, J.

1. Leave granted.

2. This appeal is directed against the judgment dated 26.11.2007 passed by learned single Judge of the High Court of Punjab and Haryana in RSA No.3720 of 2002.

3. The appellant filed the suit in Civil Suit No.66-C on the file of Additional Civil Judge, Sr. Division, Fatehabad, seeking declaration that he has prescribed title to suit -

4. land measuring 1 kanal 2 marlas in village Gorakhpur by adverse possession and a further declaration for setting aside the auction dated 6.4.1983 in favour of Moti Ram, predecessor-in-interest of Respondents 2 to 7 in respect of the suit land and for permanent injunction against the defendants from taking possession of the suit land from him. The suit was contested by respondent No.1 and 2 herein namely State of Haryana

that the suit land was owned by the custodian department and was auctioned in favour of Moti Ram on 6.4.1983 and the possession could not be delivered as the plaintiff is in unauthorized occupation. Respondents 3 to 7 also contested the suit. The trial court on appreciation of oral and documentary evidence decreed the suit as prayed for, with costs. Respondent Nos.1 and 2 herein challenged the same by preferring the appeal in Civil Appeal No.2 of 2002 on the file of Additional District Judge, Fatehabad and the appellate court after hearing both sides allowed the appeal by setting aside the judgment and decree of the trial court and dismissed the suit. Challenging the -

5. judgment the appellant herein/plaintiff preferred second appeal in RSA No.3720 of 2002 and the High Court held that no substantial question of law arises for consideration and it is open to the State to take possession of the suit land from the plaintiff in accordance with law and thus disposed of the second appeal.

6. When the matter was listed for final disposal on 3.8.2012 this Court passed the following order:

"After arguing the matter at some length learned counsel for the petitioner submitted that without prejudice to his rights and contentions in this appeal he is prepared to make a representation to the Collector Fatehabad District offering to

purchase the suit property which measures around 1 kanal on payment of the market value of the land determined under the prevalent Rules as on the subject.

Mr. Manjit Singh, learned counsel appearing for the respondent had no objection in case an offer is made and examined by the Collector/the competent authority. We, accordingly, adjourn this matter by three months during which period the petitioner may make a representation as indicated -

above. The Collector Custodian/competent authority may examine and respond to the offer without prejudice to the contentions that are available to either side in this appeal."

7. The appellant sent representation dated 9.11.2012 to Respondent No.1 namely the Collector, Fatehabad stating that the suit land may be sold to him at prevailing Government rate and he is ready to purchase it. The Collector, Fatehabad, has filed affidavit dated 22.11.2013 before this Court in which he has averred as follows:

"I, Dr. Saket Kumar, I.A.S., Collector, Fatehabad Tehsil & District Fatehabad (Haryana) do hereby solemnly affirm and declare as under:-

That I have examined the representation dated 09.11.2012 made by the petitioner whereby the petitioner Birbal agreed to purchase the suit property i.e. 1 kanal 2 marlas comprised in khasra No.1264 situated in village Gorakhpur Tehsil & District Fatehabad (Haryana) on prevailing collector rate and the said representation has been moved by the petitioner in compliance of the order dated 03.8.2012 passed by this Hon'ble Court. After examining the representation made by the petitioner Birbal, - I also recorded the statement of the petitioner Birbal on 16.09.2013 keeping in view the fact that the petitioner is in unauthorized possession of the suit property for a long time. By way of the statement dated 16.9.2013, the petitioner

Birbal agreed to purchase the suit property measuring 1 kanal 2 marlas comprised in khasra Nos.1264 at the rate of Rs.17,914.00 per marla total amounting to Rs.3,94,108.00. However, the petitioner Birbal on account of his poor financial condition expressed his inability to make the payment together and offered to pay the same in six installments.

That in case the directions are issued by this Hon'ble Court in the present S.L.P., then the plot shall be sold to the petitioner Birbal at the rate of Rs.17,914.00 per marla total amounting to Rs.3,94,108.00 in respect of 1 kanal 2 marlas of plot comprised in khasra Nos.1264 situated in village Gorakhpur Tehsil & District Fatehabad (Haryana)."

8. The appellant has also filed his affidavit dated 16.1.2014 stating that he is prepared to purchase the suit land at the prevailing Government rate namely Rs.17,914/- per Marla total amounting to Rs.3,94,108/-; if the same is made in six easy installments keeping in -

9. view his underprivileged financial condition and inability to pay in one lump-sum.

10. We heard the counsel appearing on both sides and perused the records. Admittedly, the appellant is in possession of the suit land for a long time as held by the courts below. The Collector has favourably considered the representation and assessed the market value of the suit land at a sum of Rs.3,94,108/-. Due to poor financial condition the appellant has sought for permission to pay the sale price in six installments.

11. We are of the considered view that it is a fit case for exercise of our power under Article 142 of the Constitution of India for doing complete justice between the parties in the matter and we do so by disposing of the appeal in the following manner. The appellant shall deposit the sale price of a sum of Rs.3,94,108/- with Respondent No.1 in six installments. The first installment of Rs.94,108/- shall be deposited on or before 30.4.2014. The balance amount of Rs.3 lacs shall -

12. be deposited in five installments of Rs.60,000/- each at an interval of two months so as to complete the entire process by the end of February 2015. Upon such deposit the suit shall stand decreed in his favour; in case of default in payment of the installments the appeal shall stand dismissed without further reference to this Court.

.....J.
(T.S. Thakur)

.....J.
(C. Nagappan)

New Delhi;
February 25, 2014.