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judgment. In fact clause (2) (i) of Annexure P-4 reflects the Government's intention to restrict employment only to those cases where monthly income of the family is less than Rs. 2,500 per month. In our opinion, clause (2) (i) sufficiently meets the guidelines laid down by the Supreme Court and classification made between married and unmarried dependents of the deceased Government employee is wholly arbitrary and irrational. This classification has no nexus, whatsoever, with the object sought to be achieved and it is, therefore, contrary to Article 14 of the Constitution.

(10) For the reasons mentioned above, we allow the writ petition. Clause 2(iv) of Memo dated 8th May, 1995 (Annexure P-4) is declared to be unconstitutional and is struck down. The respondents are directed to consider the case of the petitioner for appointment on compassionate grounds and pass a necessary order within a period of two months from the submission of the certified copy of this order.

(11) The parties are left to bear their own costs.

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R.N.R.

*Before Hon'ble Jawahar Lal Gupta, J.*

**DALIP KAUR ETC.,—Appellants.**

*versus*

**JEEWA RAM & OTHERS.—Respondents.**

*Execution Regular Appeal No. 2120 of 1995*

**8th December, 1995.**

*Code of Civil Procedure, 1908—S. 144—Constitution of India, 1950—Art. 136—Possession taken in execution of decree—Decree set aside by Supreme Court in appeal—Restoration of possession—Objection to restoration by subsequent purchasers—Principle of lis pendens—Applicability of.*

**Held,** that the Supreme Court is at the head of the 'pyramid' of the judicial system in this country. It exercises original and appellate jurisdiction. It has the power to pass such decree or make such order as is necessary for doing complete justice in any cause or matter

and any decree so passed or order so made shall be enforceable throughout the territory of India. The law declared by the Supreme Court is binding on all Courts within the territory of India. Under Article 136 of the Constitution of India, the Supreme Court has the discretion to grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any Court or Tribunal.

(Para 7)

*Further held*, that the decree having been reversed, the parties were clearly entitled to restitution of possession. The mere fact that the present appellants were not a party before the Supreme Court, is of no consequence as their interests were duly represented by their vendor who was admittedly a party.

(Para 7)

*Further held*, that there appears to be no warrant for the view that the proceedings are not a continuation of the original suit. The mere fact that the leave to appeal has to be obtained under the Constitution does not mean that the doctrine of *lis pendens* would not apply or that the decree holder shall not be entitled to the restoration of possession.

(Para 7)

J. R. Mittal, Sr. Advocate with K. K. Goyal, Advocate, for the Appellant.

L. N. Verma, Advocate, for Respondent Nos. 1 to 21.

#### JUDGMENT

*Jawahar Lal Gupta, J.*

Are the proceedings in a Civil Appeal before the Supreme Court in pursuance to the grant of Special Leave under Article 136 of the Constitution of India not a continuation of the proceedings in the original suit and is the principle of *lis pendens* not applicable to such proceedings? This is the short question that arises in this Second Appeal.

(2) A few facts may be noticed.

(3) Lachhman respondent No. 24 filed a suit for possession by way of pre-emption of the land measuring 9 Kanals 9 Marlas which had been sold to respondents 1 to 5 (original vendees). A part of this land had been sold by respondents 1 to 5 to respondents 6 to 21. The suit for possession by pre-emption was decreed by the trial Court on August 22, 1983. In pursuance to this decree, Lachhman

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took possession of the suit land on October 6, 1983. The appeal filed by respondents 1 to 5 was dismissed by the learned District Judge on March 18, 1985. The Second Appeal to this Court was dismissed on September 26, 1985. Thereafter, respondents 1 to 5 filed a Special Leave Petition under Article 136 of the Constitution of India. Leave was granted. The appeal of respondents 1 to 5 was accepted, *vide* order, dated October 5, 1989. Accordingly, the suit filed by Lachhman was dismissed. Thereafter, the original vendees and respondents 6 to 21 filed an application under section 144, Code of Civil Procedure, for restitution of possession.

(4) The appellants along with respondents 22 and 23 filed objections alleging that they had purchased the suit land from Lachhman. Being *bona fide* purchasers for consideration, the petition under section 144 of the Code was not competent. Respondents 1 to 21 filed reply to the objections and pleaded that the matter was governed by the principle of *lis pendens*. The learned trial Court framed the following Issues :

(1) Whether the objections are maintainable as alleged in the objection petition ? OPP

(2) Relief.

(5) *Vide* judgment dated February 23, 1994, the learned trial Court rejected the objections. On appeal the order of the trial Court having been affirmed, the Objectors have filed the present Second Appeal.

(6) The sole contention raised by Mr. J. R. Mittal, learned counsel for the appellants is that the principle of *lis pendens* does not apply to the proceedings in the appeal before their Lordships of the Supreme Court. He has placed firm reliance on the decision of this Court in *Mewa Singh and another v. Jagir Singh and another* (1). The claim made on behalf of the appellants has been controverted by the learned counsel for respondents 1 to 21.

(7) Firstly, it deserves notice that the Supreme Court is at the head of the 'pyramid' of the judicial system in this country. It exercises original and appellate jurisdiction. It has the power to pass such decree or make such order as is necessary for doing complete justice in any cause or matter—and any decree so passed or order so made shall be enforceable throughout the territory of India.

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(1) A.I.R. 1971 Punjab & Haryana 244.

The law declared by the Supreme Court is binding on all Courts within the territory of India. Under Article 136 of the Constitution of India, the Supreme Court has the discretion to "grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any Court or Tribunal" in the territory of India. Their Lordships can even interfere with an interlocutory order. The powers conferred on the Court under the Constitution are very wide. This power has been invoked and exercised not only in cases where substantial questions of law are involved but even in those where the High Court has come to a wrong conclusion from the evidence. The Court has interfered with the orders passed by the High Court in Second Appeals or Revision Petitions. In the present case, the decree which had been passed by the trial Court and affirmed by the lower appellate Court as well as this Court in Second Appeal, was reversed by their Lordships. The decree having been reversed, the parties were clearly entitled to restitution of possession. The mere fact that the present appellants were not a party before the Supreme Court, is of no consequence as their interests were duly represented by their vendor who was admittedly a party. Still further, "there appears to be no warrant for the view that the proceedings are not a continuation of the original suit. The mere fact that the leave to appeal has to be obtained under the Constitution does not mean that the doctrine of *lis pendens* would not apply or that the decree-holder shall not be entitled to the restoration of possession ?

(8) As for decision in *Mewa Singh's case* (supra), it deserves mention that in this case the dispute was not decided on merits but in terms of the compromise arrived at between the parties. It was further found that the appellants had recognised the fact "that they were not entitled to get back the possession of that land from Purshotam Das Rattan as he was not a party to the appeal and in his absence it could not be held that the gift in his favour was fictitious... For these reasons, the appellants cannot now seek the assistance of the Court to get possession of 30 Bighas of land from Purshotam Das Rattan". It is no doubt true that his Lordship was pleased to observe that Article 136 of the Constitution is an extraordinary remedy and is not in the ordinary line of appeal. However, it was also observed that "there is no doubt that the transferee during the pendency of a suit or other proceedings is bound by the result thereof but that principle cannot be made applicable to the facts of this case in view of the insertion of Clause (iv) in paragraph 10 of the petition of compromise and then its deletion, which were conscious acts and

amounted to not disturbing the rights of Purshotam Das Rattan". It was, thus, clearly a case on its own facts. However, the principle that the transferee during the pendency of the proceedings is bound by the result was recognised. This is precisely what has happened in the present case.

(9) In view of the above, the question posed at the outset is answered in the negative. It is held that proceedings before the Supreme Court are a continuation of those in the original suit and that the principle of *lis pendens* as well as restitution shall apply to the proceedings. Accordingly, it is held that there is no merit in this appeal. It is dismissed. However, in the circumstances of the case, I make no order as to costs.

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S.C.K.