

JANATHA DAL PARTY

v.

THE INDIAN NATIONAL CONGRESS & OTHERS
(Special Leave Petition (Civil) No. 38991 of 2013)

JANUARY 21, 2014

[K.S. RADHAKRISHNAN, AND VIKRAMAJIT SEN, JJ.]

Suit:

Suit by Indian National Congress for declaration of title to and for possession of Congress Bhavan in City of Bangalore after split in Congress – Held: The order of ECI and Supreme Court in Sadiq Ali's case clearly indicate that the Congress then led by Indira Gandhi had established rights on the properties in question — On facts, it is clearly found that Congress (O) or Janata Dal had no right in the suit property and as such the various lease deeds executed by them also cannot stand in the eye of law – Time granted to respondents to vacate the premises.

The plaintiffs-respondents nos. 1 to 4 filed a suit for declaration of plaintiffs nos. 1 and 2 over the suit property and for its possession, stating that suit land was donated by its owner for construction of a Congress House. A registered Gift Deed dated 22.4.1949 in respect of the suit land was executed by its owner in favour of the Bangalore City Congress Committee. The All India Congress Party constructed the Congress Bhavan on the suit land. Subsequently, as a result of split in the party, Congress (J) was declared by the Election Commission of India as the Indian National Congress and the said decision was upheld by the Supreme Court in *Sadiq Ali's* case. However, when the suit property came in possession of Congress (O) and Janata Party, lease deeds were executed in favour of defendants 3 and 4 and

A defendants 9 to 12 claimed themselves as tenants. The plaintiffs' case was that Janata Party and /or Congress (O) had no right, title or interest for granting the lease deeds. The case of the appellant-defendant no. 1 was that the judgment in *Sadiq Ali* would not confer any title,
B ownership or possession of the suit property on the plaintiffs. Further, it was also pleaded that the suit itself was barred by the law of limitation. The trial court decreed the suit. RFA filed by Janata Party was dismissed by the Division Bench of the High Court.

C Dismissing the petition, the Court

HELD: 1.1. It cannot be accepted that the decision of the ECI or the judgment of this Court in *Sadiq Ali* would have no bearing, so far as the facts of the instant case are
D concerned. ECI, after applying the test of majority at the organizational level and the legislative wings, took the view that Congress (J) group of Congress came to be recognized as the Congress for all purposes. The order of ECI and this
E Court clearly indicate that the Congress then led by Indira Gandhi had established rights on the properties in question. Since, on facts, it has found that the defendants have no right over the property in question, the various lease deeds executed by them also cannot stand in the eye of law. [para 10] [755-D-H; 756-A]

F *Shri Sadiq Ali and another v. The Election Commission of India, New Delhi and others* 1972 (2) SCR 318 = (1972) 4 SCC 664 – relied on.

G 1.2. The suit property was gifted by registered gift deed dated 22.4.1949 by its owner in favour of Bangalore City Congress Committee. Plaintiffs could successfully trace their title and interest over the suit property towards that gift deed executed in the year 1949, coupled with the various declarations by the ECI recognizing the plaintiff

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as the real Congress and the Judgment of this Court affirming the same. [para 11] [756-A-C] A

1.3. Janata Party came into picture only in the year 1977. On facts, it is clearly found that Congress (O) had no right in the suit property. In the instant case, Janata Dal (Secular) was impleaded as defendant only on 14.10.2003 and the disputed property was known as the Congress Bhavan till the formation of Janta Dal in the year 1977. It is relevant to note that the defendants had never accepted plaintiffs as the owner of the property. On the contrary, their specific case was that the 1st defendant was the owner of the property. On facts, it was found that the 1st defendant had no title over the suit property. Further, the entire burden of proving that the possession is adverse to that of the plaintiffs, is on the defendant. On the other hand, the possession of the suit property was throughout of Congress and its successor parties and not that of the petitioner. It was after the split in Janata Party and, subsequently before the filing of the suit, that Janata Dal continued to be in possession of the suit property. The plea of limitation and adverse possession was elaborately considered by the courts below and there is no error in the findings recorded by them on that ground as well. Further, no substantive question of law arises in the case. [para 12] [756-C-G] B C D E

1.4. Considering the facts that the petitioner is in possession of the property for a considerable long period, time up to 31.12.2014 is granted to vacate the premises subject to furnishing the undertaking. [para 13] [757-A] F

Case Law Reference:

1972 (2) SCR 318 relied on para 2

CIVIL APPELLATE JURISDICTION : SLP (Civil) No. 38991 of 2013. H

A From the Judgment and Order dated 11.10.2013 of the High Court Karnataka at Bangalore in R.F.A. No. 2011 of 2005.

Gopal Subramaniam, Prashant Kumar, Triveni Poteker, Shyam Nanda, Chandra Bhushan Prasad for the Petitioner.

B P.P. Rao, S.S. Naganand, Venkita Subramoniam, Raghavendra S. Srivatsa, Rahat Bansal, Akshat Kulshrestha, Surajit Bhadhuri, Swarnendu Chatterjee, K.C. Mittal, R.K. Rathore for the Respondents.

C The Judgment of the Court was delivered by

K.S. RADHAKRISHNAN, J. 1. We are, in this case, concerned with the ownership and possession of Premises No. 3, Race Course Road, Bangalore, 'A' scheduled property, wherein, at present, the political party Office of Janata Dal (Secular) is situated. The suit property originally belonged to one Sri C. Rangaswamy, who was the resident of Property No. 54, Hospital Road, Baleput, Bangalore City, executed a registered Gift Deed dated 22.4.1949 in favour of Bangalore City Congress Committee which was having its office at No. 142, Cottonpet, Bangalore City, which measured 5330 sq. yards. The land was donated by the donor for the purpose of construction of Congress House, wherein the All India Congress Party constructed a building, by name, 'Congress Bhavan', in a portion of the suit property. In the year 1969, there was split within the Indian National Congress giving rise to two groups, one led by late Smt. Indira Gandhi, under the Presidentship of late Sri Jagajivan Ram and the other group led by late Sri S. Nijalingappa. The group led by Jagajivan Ram was then called the 'Indian National Congress (J)', whereas the other group led by Nijalingappa was called as 'Indian National Congress (O)'. The split in the party at the centre had its own effect in the State of Karnataka as well. The then Mysore Pradesh Congress Party broke up into Congress (J) and Congress (O) corresponding to those groups in the All Indian Congress Committee at the Centre. Each group claimed itself to be the

real Indian National Congress. That dispute came up before the Election Commission of India (ECI). A

2. The ECI, applying the test of majority at the organizational level and the legislative wings, by its order 11.1.1971 held that the Congress (J) was the Indian National Congress. The decision of the ECI was upheld by this Court in *Shri Sadiq Ali and another v. The Election Commission of India, New Delhi and others* (1972) 4 SCC 664. Consequently, Congress (J) group, formed as the Indian National Congress, came to be recognized as the Indian National Congress for all purposes. B C

3. The General Elections to the Lok Sabha were held in the year 1977. The opposition parties consisting of Congress (O) Group - led by Nijalingappa, Lok Dal headed by late Sri Charan Singh, Jana Sangha - led by Sri A.B. Vajapayee and Congress for Democracy - led by Sri Jagjivan Ram, fought elections together as one front under the name of Janata Party. Congress was defeated in that election. Janata Party formed the Government at the Centre, but did not last long. In the year 1978, there was a further split within the Congress. National Convention of the Congress was held at New Delhi on 1.1.1978 and 2.1.1978, in which members of the All India Congress Committee, Members of Parliament, members of the State Legislatures and Congress candidates participated and they unanimously elected Smt. Indira Gandhi as the President, though Sri K. Brahmananda Reddy was also in the fray. ECI was called upon to examine that dispute as well. Later, Sri D. Devaraj Urs succeeded Sri Brahmananda Reddy as the President of that group, which came to be known as Congress (U). However, Indira Gandhi continued to be the leader of the main body which was identified as the Congress (I). The Election Commission allotted separate symbols to the Congress (U) and (I) groups. The election to the Lok Sabha took place in December 1979 and Congress (I) was voted back to the Lok Sabha. D E F G

A 4. The Election Commission, in the meantime, resolved
 the dispute pending before it and recognized Indira Gandhi as
 the President of the Party, known by the name of Congress (I).
 It was also held that the group led by D. Devaraj Urs, known by
 the name of Congress (U), was not the Congress, leaving liberty
 B to that group to approach the Commission for its recognition
 as a party, taking a different name for itself. D. Devaraj Urs,
 purporting to be the President of Congress (U), filed a petition
 for special leave to appeal to this Court against the order of
 the ECI dated 23.7.1981. This Court, after issuing notices to
 C all the parties and hearing counsel on either side, dismissed
 the Special Leave Petition on 14.8.1981.

D 5. We have narrated the above facts to indicate that the
 suit property, all other properties and funds belonging to or
 referred to as belonging to the Congress are thus the properties
 and funds of the 1st Plaintiff herein. Similarly, all properties and
 funds belonging to or referred to as belonging to the erstwhile
 Mysore Pradesh Congress Committee or the KPCC thus
 belong to the 2nd Plaintiff herein. The 'A' Schedule property is
 owned by 2nd and 1st plaintiffs herein. The land comprised
 E therein was acquired by the erstwhile Mysore Pradesh
 Congress Committee, as it was then called, and it constructed
 the buildings standing in the suit property, which was earlier
 known as Congress Bhavan.

F 6. We have already indicated that Janata Party came into
 possession of the schedule property in question in the year
 1977. During the period, the above mentioned property was
 under the control of Congress (O) group. Two lease deeds were
 executed in respect of two portions of the vacant land, vide
 G lease deeds dated 22.1.1971 and 10.4.1971, in favour of 3rd
 respondent. After the Janata Party came in possession in the
 year 1977, the previous Janata Party, a unit of 1st defendant,
 granted lease of a portion of the plaint 'A', schedule property
 in favour of 4th defendant on 04.08.1981, of which defendants
 5 to 8 are partners, the portion leased is described in the plaint
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'C' schedule. The Janata Party or the previous Janata Party had no right, title or interest for granting lease of the plaint 'C'. Defendants 9-12 are stated to be the tenants in portions of the building constructed in 'A' schedule property, having taken the same on lease from the 1st defendant.

7. We have indicated that the plaintiffs instituted the present suit seeking a declaration of their title and for possession of the suit property and also sought to recover Rs.36,000/- towards past mesne profits. Defendant 1 and 2 filed their written statements on 10.11.1983 contesting the suit, but the factual details were not disputed as such. But, it was pleaded that the decision taken by the ECI or the judgment of this Court in *Sadiq Ali* (supra) would not confer any title, ownership or possession of the suit property on the plaintiffs. According to the defendants, throughout, the above mentioned property was in the possession of Congress (O), and after its merger, it was in the possession of Janata Party and, at no point of time, the plaintiffs were in possession. Further, it was also pleaded that the suit itself was barred by the law of limitation. Defendants 4 to 6 filed a written statement on 31.7.1984 disputing the plaintiffs' right to bring the suit on behalf of Indian National Congress. They pleaded that the Congress (O) continued to be in possession as the absolute owner of the suit property. Further, it is also stated that Congress (O) and some other political parties joined together and constituted Janata Party and Congress (O) was one of the constituents of Janata Party, and the property in question became the property of Janata Party and, since 1977, Janata Party has been enjoying the suit property and they were having their rights to lease out the property to other contesting defendants.

8. On the basis of the pleadings of the parties, the trial Court framed 24 issues. On behalf of the plaintiffs, 5 witnesses were examined and 17 documents were exhibited. On behalf of defendants, 2 witnesses were examined and 18 documents were exhibited. The trial Court, after examining the rival

A contentions, and, on facts, came to the conclusion that
 Congress (O), which was led by Nijalingappa, lost its identity
 as Indian National Congress by virtue of the decision of the
 Election Commission and as pointed out by this Court in *Sadiq*
Ali case. The trial Court also held that this Court recognized
 B the group led by Jagjivan Ram and Indira Gandhi as the Indian
 National Congress. Consequently, the properties and funds of
 Indian National Congress, before its split in 1969, would be of
 Congress (J) led by Jagjivan Ram and Indira Gandhi and it
 would not be the property of the dissident group which was
 C identified as Congress (O). On facts, it was noticed that
 Congress (O) was subsequently merged with Janata Party and,
 on account of said merger, Janata Party would not acquire
 ownership of the suit schedule property. It was held that since
 Janata Party was not the owner of the suit property, it had no
 D right to grant lease in favour of 4th defendant and grant of such
 lease by Janata Party would not bind the plaintiffs. Similarly, it
 was also held that the grant of lease in 'C' schedule property
 in favour of 3rd defendant by the President of Mysore Pradesh
 Congress Committee, a unit of Congress (O) party, was illegal
 and was not preceded by approval or permission of Indian
 E National Congress. The trial Court also rejected the plea of
 adverse possession and limitation and held that the plaintiffs
 have succeeded in establishing their title over the properties
 in question and, consequently, held that the plaintiff is entitled
 to recovery of possession and also mesne profits. Aggrieved
 F by the same, Janata Party filed RFA No. 2011 of 2005 which
 was heard by a Division Bench of the High Court. The High
 Court concurred with the findings recorded by the trial Court and
 dismissed the appeal by its judgment dated 11.10.2013,
 against which this SLP has been preferred.

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 9. Shri Gopal Subramaniam, learned senior counsel
 appearing for the petitioner, reiterated all the factual contentions
 raised before the trial Court as well as the High Court based
 on the basis of the written statements filed by the contesting
 H respondents and submitted that neither the decision of the ECI

nor the judgment of this Court in *Sadiq Ali* (supra), would confer any title or possession on the plaintiffs over the suit property. Learned senior counsel submitted that the plaintiff could succeed in establishing their title and possession only on the basis of independent documents and not on the basis of the decision of the ECI or the judgment of this Court in *Sadiq Ali*. Learned senior counsel also submitted that the High Court has erred in noticing that Article 65 of the Limitation Act, 1963, specifies that the limitation for possession of immovable property or any interest therein based on title is 12 years and the time from which the period begins to run is when the possession of the defendant became adverse to the plaintiff. Learned senior counsel pointed out that, in the instant case, possession of the defendant and their predecessor in title became adverse to that of the plaintiff more than 12 years prior to the filing of the suit and, therefore, the suit was liable to be dismissed solely on the ground of limitation.

10. We have heard the arguments at length and have also gone through the pleadings of the parties as well as the judgments of the Courts below. We find it difficult to accept the contention raised by the learned senior counsel that the decision of the ECI dated 11.1.1971 or the judgment of this Court in *Sadiq Ali* (supra) would have no bearing, so far as the facts of this case are concerned. The question as to which of the two groups, Congress (J) or Congress (O) (the then Congress Party) should be recognized as the Congress, as already indicated, came before the ECI. ECI, after applying the test of majority at the organizational level and the legislative wings, took the view that Congress (J) group of Congress came to be recognized as the Congress for all purposes. The order of ECI and this Court clearly indicate that the Congress then led by Indira Gandhi had established rights on the properties in question. The Courts below have narrated in detail how the suit property came into the hands of the plaintiffs and how the Congress (O) followed by Janata Party ceased to have any right over the suit property in question. Since, on facts, it was

A found that the defendants have no right over the property in question, the various lease deeds executed by them also cannot stand in the eye of law.

B 11. We have noticed that the property in question was gifted vide registered gift deed dated 22.4.1949 by Rangaswamy in favour of Bangalore City Congress Committee. Plaintiffs could successfully trace their title and interest over the suit property towards that gift deed executed in the year 1949, coupled with the various declarations by the ECI recognizing the petitioner as the real Congress and the Judgment of this Court affirming the same.

D 12. We are also not impressed by the arguments raised by the learned senior counsel on the plea of limitation. So far as Janata Party is concerned, it came into picture only in the year 1977. On facts, it is clearly found that Congress (O) had no right in the suit property. In the instant case, Janata Dal (Secular) was impleaded as defendant only on 14.10.2003 and the disputed property was known as the Congress Bhavan till the formation of Janta Dal in the year 1977. It is relevant to note that the defendants had never accepted plaintiffs as the owner of the property. On the contrary, their specific case was that the 1st defendant was the owner of the property. On facts, it was found that the 1st defendant had no title over the property in question. Further, the entire burden of proving that the possession is adverse to that of the plaintiffs, is on the defendant. On the other hand, the possession of the suit property was throughout of Congress (O) and its successor parties and not that of the petitioner herein. It was after the split in Janata Party and, subsequently before the filing of the suit, Janata Dal continued to be in possession of the suit property.

G The plea of limitation and adverse possession was elaborately considered by the Courts below and we find no error in the findings recorded by the Courts below on that ground as well. Further, no substantive question of law arises for our consideration. The SLP, therefore, lacks merits and is dismissed.

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13. Considering the facts that the petitioner is in possession of the property for a considerable long period, we are inclined to grant time up to 31.12.2014 to vacate the premises, for which the petitioner has to prefer an undertaking before this Court within one month from today stating that the petitioner would vacate the premises within the stipulated time and that the petitioner would pay the entire arrears of rent within a period of three months and will continue to pay the rent without any default. If the petitioner commits two consecutive defaults in payment of monthly rent or fails to file the undertaking, the time granted by this Court would not be available and it will be open to the respondents to get the judgment/decreed executed.

R.P.

SLP dismissed.