

HIGH COURT OF JUDICATURE FOR RAJASTHAN
JODHPUR

S.B. Civil Second Appeal No. 95/2016

Omprakash

----Appellant

Versus

Narendra Kumar And Ors.

----Respondent

For Appellant(s) : Mr. M.C. Bishnoi

For Respondent(s) :

HON'BLE MR. JUSTICE MANOJ KUMAR GARG
Order

29/07/2024

After hearing the counsel for the appellant, in my considered opinion, the following substantial questions of law arise for consideration in this second appeal:-

1. Whether the appellant, who had admittedly completed 18 years of age as on the relevant date can at all be treated to be minor under Section 3 of the Indian Majority Act, 1875 when no such guardian of appellant or his property was at all appointed at any time including before his attaining the age of 18 years?
2. Whether both the Courts below had committed substantial error of law in interpreting Section 3 of Indian Majority Act while passing the impugned judgment holding the appellant to be minor on the relevant date below 21 years of age although more than 18 years of age?
3. Whether Section 5 of the Hindu Minority & Guardianship Act, 1956 will override the provisions of Indian Majority Act, 1875 and thus, the appellant was not minor as on the relevant date of notification published in February, 1975?

4. Whether cancellation of appellant's patta was null and void in the above facts and circumstances of the case?

5. Whether under Section 4 of Hindu Minority & Guardianship Act, the appellant was not minor as he was not below the age of 18 years as on the date of notification published in February 1975 on which day, the appellant had admittedly completed more than 18 years of age and thus, was major?

6. Whether both the learned courts below reached to the perverse findings of facts while passing the impugned judgments and decree?

7. Whether both the learned courts below misapplied the principle of law laid down vide several cases cited before learned courts below?

8. Whether both the learned courts below committed substantial error of law and facts by relying upon the hearsay evidence produced by the defendants regarding the appellant's age which is substantial error of law envisaged under Section 60 of Indian Evidence Act?

9. Whether both the learned courts below committed substantial error of law and facts while deciding the issue No.3 regarding less suit valuation and less payment of court fees without giving opportunity to the plaintiff to correct the suit valuation and pay proper court fees?

Admit.

Issue notice to the respondents, returnable within ten weeks.

(MANOJ KUMAR GARG),J