

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(s). 4363 OF 1999

RAMLAL AGARWAL

Appellant (s)

VERSUS

RAMDAS AND ORS.

Respondent(s)

(With office report)

WITH

SLP(C) No. 6652/1999

Date: 22/03/2006 This Appeal/petition were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH

HON'BLE MR. JUSTICE ALTAMAS KABIR

For Appellant(s)

Mr. E.R.Kumar, Adv.

Ms. Jina Mullick, Adv.

for P.H.Parekh & Co., Adv.

Ms. Prabha Swami, Adv. (NP)

For Respondent(s)

Mr. S.V. Deshpande, Adv.

Mr. Dhruv Mehta, Adv.

Mr. Harshvardhan Jha, Adv.

Mr. Yashraj Singh, Adv.

for K.L. Mehta & Co., Adv.

Ms. S. Janani, Adv.

UPON hearing counsel the Court made the following

O R D E R

C.A. No.4363/1999

The appeal is dismissed in terms of the signed order.

No order as to the costs.

SLP(C) No. 6652/1999

he signed

The special leave petition is dismissed in terms of t

order.

(Ajay Kr. Jain)
(Vijay Dhawan)

Court Master
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4363 OF 1999

Ramlal Agarwal ..
.. Appellant

Versus

Ramdas and Ors. .
... Respondents

O R D E R

This appeal by special leave is directed against the judgment and order of the High Court of

Judicature of Andhra Pradesh at Hyderabad in C.C.C. Appeal Nos. 37, 46 and 8 of 1995 dated 23rd July, 1998

whereby the appeal preferred by the appellant herein was substantially dismissed except for one item of

property, against which the respondents have not appealed.

One Saheb Ramji was the common ancestor. His son Pokar Das had two sons, namely, Motilal

and Chunnilal. Pokar Das together with his sons constituted a Joint Hindu Family which carried on business.

The younger son Chunnilal died in the year 1952 leaving behind two sons, plaintiffs herein, namely Ram Das

and Ram Pratap. Pokar Das also died in the year 1961 whereafter the business was carried on by Motilal, the

elder son of Pokar on behalf of the family. The plaintiffs were then minors and therefore the business was

being carried on by Motilal. Motilal also died in the year 1974 leaving behind two sons, namely, Ram Lal and

Ram Prakash, defendants 1 and 2 in the suit and appellants before us. The wife of Motilal and his two

daughters who were defendants in the suit did not contest the suit.

The Trial Court by its judgment and decree dated 5.8.1994 decreed the suit against which the

appellants/defendants herein preferred an appeal before the High Court which has been disposed of by the

impugned judgment and order.

Counsel for the appellant submitted that the courts below were in error in holding that apart

from two properties about which there was no dispute, the remaining properties were also joint family

properties. In particular, it was submitted that the petrol pump business carried on by Motilal was carried on

by him in his individual capacity and that business was not a part of the joint family business. Both the courts

below have negated this contention and recorded a finding, which is a pure finding of fact, that the petrol

pump business was also a part of the family business since such business was acquired out of the income of

joint the family funds which was managed and controlled by Motilal. The finding is based on a n appreciation

of the evidence on record. Both the Courts have concurrently found as a matter of fact that the properties in

suit, except one item, formed part of the joint family properties and was, therefore, available for partition. We

find no reason to take a different view. This appeal is, therefore, dismissed.

No order as to the costs.

SLP(C) NO. 6652/1999

The special leave petition is dismissed.

.....J.

(B.P. SINGH)

.....J.

(ALTAMAS KABIR)

New Delhi

March 22, 2006