

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.1766 OF 2006

JANARADAN DASS

.....APPELLANT

VERSUS

RAGHUBIR SINGH (D) THR. LRS.

....RESPONDENTS

O R D E R

We have heard learned counsel appearing for the parties and perused the impugned order dated 19.08.2004 passed by the High Court of Himachal Pradesh in RSA No.376 of 2004 as also the judgments passed by the first appellate court and the trial court.

Indisputably, the facts of the case are that although the power of attorney given to defendant no.1-was cancelled on 12.07.2000, he executed a sale deed in favour of the present appellant-defendant no.2. The plaintiff-respondents filed a suit for declaration that the sale deed executed by the defendant no.1 was null and void. All the three courts have come to a concurrent finding that defendant no.1 had no authority to sale the property of his father.

Mr. J.S. Attri, learned Senior Counsel appearing for the appellant, submits that in any event, the appellant

is entitled to recover the consideration amount alleged to have been paid to defendant no.1. Hence, a direction be issued to defendant no.1 to refund the consideration amount.

In considering the submission made by Mr. Attri, learned Senior Counsel for the appellant, we are afraid that such a direction can be issued in the instant case which arose out of a suit for other relief stated hereinabove, particularly when at any stage of the proceeding the appellant did not move any application either before the trial court or the first appellate court nor filed a cross suit for the recovery of the consideration amount.

In the background of these facts, we do not find any merit in this appeal which is dismissed accordingly.

.....J
[M. Y. EQBAL]

.....J
[C. NAGAPPAN]

NEW DELHI;
SEPTEMBER 15, 2015.

ITEM NO.103

COURT NO.10

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).1766/2006

JANARADAN DASS

Appellant(s)

VERSUS

RAGHUBIR SINGH (D) THR. LRS.

Respondent(s)

(With interim relief and office report)

Date : 15/09/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.Y. EQBAL
HON'BLE MR. JUSTICE C. NAGAPPANFor Appellant(s) Mr. J.S. Attri, Sr. Adv.
Mr. Balraj Dewan, Adv.
Mr. Chandra Nand Jha, Adv.For Respondent(s) Mr. Vivek R. Mohanty, Adv.
For M/s Aura & Co.

Rr-ex-parte, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed order.

(Sanjay Kumar-II)
Court Master(Indu Pokhriyal)
Court Master

(Signed Order is placed on the file)