

PART-HEARD

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.4288 OF 1999

M.SHIVARAM SINGH & ANR.

Appellant(s)

VERSUS

SHRISTI SINGH

Respondent(s)

(With appln(s) for exemption from filing O.T. and with office report)

Date: 01/02/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE A.K.MATHUR

For Appellant(s)

Ms. Binu Tamta, Adv.

For Respondent(s)

Mr. D.P. Chaturvedi, Adv.for

Mr. S.N. Bhat, Adv.

UPON hearing the Court made the following

O R D E R

The appeal is allowed in terms of the signed order.

(Parveen Kr. Chawla)

(Kanwal Singh)

Court Master

Court Master

[Signed Order is placed on the File]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4288 OF 1999

M.SHIVARAM SINGH & ANR.

..APPELLANT(S)

VERSUS

SHRISTI SINGH  
)

..RESPONDENT(S)

O R D E R

This appeal is directed against the judgment of the learned Single Judge of the High Court of Karnataka at Bangalore in R.S.A. No. 788 of 1982 whereby the High Court while reversing the judgment of the first appellate Court has restored the judgment and decree passed by the trial court. By the impugned judgment the suit

filed by the plaintiff-respondent has been decreed. At the time of admission, the

following two questions of law, said to be arising from the findings of the first appellate court were framed.

"1. Whether the learned Civil Judge was right in holding that the plaintiff has failed to prove that suit lands fell to his share in the family partition especially when the documents produced by the plaintiff such as Ex. P.1(Form No.20) and other revenue records show that the suit land has fallen to his share?

2. Whether the learned Civil Judge was right in dis-believing Ex. P.1(Form No. 20) especially when it is maintained as per Rules 62 and 64 of the Karnataka Land Revenue Rules by the Revenue Authorities and as well as Ex. P.2 (Certified copy of record of rights) pertaining to the suit land which evidenced the factum of partition?"

The High Court without recording much reasons has reversed the findings of the first appellate court on the aforesaid questions of law and restored that of the trial Court. The High Court has not come to the conclusion that the findings recorded by the first appellate court were perverse being based on no evidence or misreading of evidence. The High Court has reversed the findings of the first appellate court by stating that the findings recorded by the first appellate court were prima facie untenable and therefore liable to be set aside. We are not satisfied with the findings

recorded by the High Court. Under the circumstances and to do complete justice

between the parties, we deem it appropriate to allow this appeal and remit the case

back to the High Court for an appropriate decision in accordance with law.

Accordingly, the Appeal is allowed, impugned judgment of the High Court is

set aside and the case is remitted back to the High Court for a fresh decision in

accordance with law. Parties are put at liberty to seek early disposal of the appeal in

the High Court. No costs.

The Registry is directed to transmit the original record forthwith.

.....J.

[ASHOK BHAN ]

NEW DELHI;

.....J.

FEBRUARY 01, 2005.

[A.K. MATHUR]