

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3098 OF 2005

MAN SINGH

.....APPELLANT

VERSUS

HARI RAM & ORS.

.....RESPONDENTS

O R D E R

The original plaintiff is in appeal, by special leave. He filed a suit for declaration praying therein that the decree dated February 05, 1991 passed against his father Kishori Lal be declared null and void and he be held entitled to 1/6th share in the suit property. Judge (Jr. Division), Rewari decreed the plaintiff's suit on September 14, 1999. The present respondents (defendants) preferred appeal against the judgment and decree passed by the Civil Judge (Jr. Division), Rewari which was heard by Additional District Judge, Rewari and vide judgment and decree dated September 01, 2011, the judgment and decree passed by the trial court was set aside and the plaintiff's suit was dismissed.

The Civil

The plaintiff preferred second appeal before the High Court, but was unsuccessful.

The first appellate court has recorded two findings: (i) that only 1/3rd of the suit property was ancestral and (ii) that by virtue of family settlement effected in the year 1978, the defendants acquired rights in the suit property and the decree dated February 05, 1991 did not create any new rights in favour of the defendants.

The High Court did not find any error in these findings.

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Mr. Pardeep Dahiya, learned counsel for the appellant, strenuously urged that the first appellate court recorded the finding regarding the family settlement effected in the year 1978 without considering the evidence on record. He submitted that before the High Court, the correctness of the finding recorded by the first appellate court with regard to the family settlement was assailed but that has not been considered.

We perused the order of the High Court and we do not find that any contention with regard to family settlement was raised before the High Court. As a matter of fact, in the petition for special leave also, no such ground has been raised.

In the circumstances, we have to accept the finding recorded by the first appellate court in respect of the family settlement effected in the year 1978 and, in view thereof, the view of the High Court affirming the judgment and decree passed by the first appellate court cannot be faulted.

The Civil Appeal has no force and is, accordingly, dismissed with no order as to costs.

.....J
(R.M. LODHA)

.....J
(SURINDER SINGH NIJJAR)

NEW DELHI,
APRIL 19, 2011.
ITEM NO.101

COURT NO.14

SECTION IV

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). 3098 OF 2005

MAN SINGH

Appellant (s)

VERSUS

HARI RAM & ORS.

Respondent(s)

(With office report)

Date: 19/04/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA
HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR

For Appellant(s)

Mr. Pardeep Dahiya, Adv.
for Mr. S.K. Sabharwal, Adv. (NP)

For Respondent(s)

Ms. Ritu Sharma, Adv.
Mr. Harish Chandra Pant, Adv.
for Mr. Anis Ahmed Khan, Adv. (NP)

Mr. Jasbir Singh Malik, Adv.
Ms. Ekta, Adv.
for Ms. Kamakshi S. Mehlwal, Adv. (NP)

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

The Civil Appeal has no force and is, accordingly,
dismissed with no order as to costs.

(N.S.K. Kamesh)
Court Master

(S.S.R. Krishna)
Court Master

(signed order is placed on the file)