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ITEM NO.302

COURT NO.5

SECTION XII

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). 9172 OF 2003

CHAMPAKESWARAR TEMPLE & ORS. Appellant (s)

VERSUS

GUNABHUSHANAM & ORS. Respondent(s)

(With office report)

WITH Civil Appeal NO. 9192 of 2003
(With office report)

Date: 25/10/2013 These Appeals were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA

For Appellant(s) Mr. Hari Haran,Adv.
Mr. S.R. Setia,Adv.

For Respondent(s)
Mr. M.A. Krishna Moorthy,Adv.

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

The appeals are dismissed in terms of the signed order.

(O.P. Sharma) (M.S. Negi)
Court Master Court Master
(Signed order is placed on the file)
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9172 OF 2003

CHAMPAKESWARAR TEMPLE & ORS.Appellants

VERSUS

GUNABHUSHANAM & ORS.Respondents

WITH

CIVIL APPEAL NO. 9192 OF 2003

O R D E R

1. These appeals have been preferred against the impugned judgment and order of Madras High Court dated 3.10.2002 passed in Second Appeal No.1671/1984 by way of which the High Court has set aside the judgment and order of the first appellate court which had reversed the judgment and order of the trial court by way of which and whereunder the suit preferred by the appellant stood dismissed.

2. This case has a chequered history as in respect of land measuring 3 acres 4 guntas the respondents claim to have been granted patta in 1959 after commencement of Abolition of Inam Act into force though the appellant-Temple claims that the land belong to the temple and it has granted an oral lease to several persons. The respondent filed suit for recovery of possession after allotment by the Settlement Officer only impleading the alleged lessee of the temple and the suit was decreed. Matter came up to this Court, however, the judgment of the Trial Court remained in tact with the observation that as the temple-appellant was not a party in the said suit, the judgment in that case shall not be binding on the temple-appellant.

3. The appellant filed a suit for declaration of title as against respondents allottees without impleading the State or the Settlement Officer who had made the allotment under the statute nor the prayer had been made to quash the allotment/pattas in favour of the respondents.

4. The trial court after examining the issue involved and taking into consideration the factual and legal aspects of the matter dismissed the suit. However, the first appeal filed by the appellant was allowed on the basis of Survey Revenue Record only. The said judgment of the first appellate court has been set aside by the High Court in regular second appeal framing and considering the substantial questions of law.

5. Learned counsel for the appellant could not satisfy us as under what circumstances without seeking the relief of quashing of the pattas in favour of the respondents made under a statute and without impleading the statutory authorities/state authorities, the relief for declaration of title could be granted. Even otherwise, we are fully satisfied that the judgment and order of the High Court impugned does not warrant interference as all the factual and legal aspects have been dealt with by the High Court appropriately. The appeals lack merit and are accordingly dismissed.

.....J.
(Dr. B.S. CHAUHAN)

.....J.
(FAKKIR MOHAMED IBRAHIM KALIFULLA)