

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.6153-6156 OF 1999

Shankar Singh (Deceased) through

L.Rs. & Ors.

Appellant (s)

VERSUS

Jahangir Singh @ Jagar Singh & Ors.

Respondent(s)

O R D E R

The plaintiffs, appellants herein, have filed these appeals against the order passed by the Division Bench of Punjab & Haryana High Court at Chandigarh in R.A. Nos. 9C/1997, 10C/1997, 11C/1997 and 15C/1997 arising in RSA Nos. 809/1979, 808/1979, 810/1979 and 811/1979. By the impugned order, the High Court has dismissed the review applications filed by the appellants by passing a common order. Facts were taken in the review application filed by Shankar Singh through his legal representatives. Earlier the appeals had been disposed of by passing a common order on the basis of the statement made by the respective counsels for the parties.

Shortly stated, the facts are :

Shankar Singh filed a suit for declaration that he is the owner in

possession of the lands as detailed in the plaint by way of adverse possession and the entries in the revenue record have no effect on his

rights. The suit was decreed by the trial court vide judgment and decree dated 20th August, 1977. Appeals at the instance of the defendants, respondents herein, were accepted by the Additional District Judge, Gurgaon by judgment and decree dated 14th February, 1979 and as a result of the same, the suit filed by Shankar Singh was dismissed. Aggrieved by the judgment and decree of the first appellate court, Shankar Singh filed regular second appeal in the High Court. Shankar Singh died during the pendency of the second appeal and his legal representatives were brought on record. Regular second appeal came up for hearing before Hon. G.R. Majithia J. (as His Lordship then was) on 21.1.1992. The appeal was disposed of on the basis of the statement made by one of the legal representatives of Shankar Singh namely his son Mohinder Singh. Statements of the respective counsels who were appearing for the appellants and the respondents in all the appeals were also recorded. The legal representatives of the Shankar Singh other than Mohinder Singh and other appellants in the connected appeals filed Special Leave Petition @ Nos. 7567-70/92 which were disposed of on the statement made by the counsel appearing for the petitioners in the special leave petitions to the effect that the petitioners intended to file the review applications. Accordingly, the special leave petitions were disposed of reserving liberty with the appellants to file the review petition in the High Court.

As G.R. Majithia J. had ceased to be a Judge of the Punjab & Haryana High Court, the review petitions were heard by the Division Bench in accordance with the High Court rules and orders read with Order 47 of Civil Procedure Code. The Division Bench dismissed the review applications on being satisfied that the dispute had been settled between the parties as per statements made by the respective counsel appearing for the appellants and respondents. As per settlement arrived at, the respondents accepted the appellants to be tenants at will on the land on payment of 1/3rd batai which was to be determined by the Asst. Collector 1st Grade, Faridabad.

After going through the order passed by Hon. G.R. Majithia J. in the appeals, the statements made by Mohinder Singh and the counsel for the appellants and respondents, we are satisfied that a settlement had validly been arrived at between the parties and the learned Judge had disposed of the appeals in terms of the settlement arrived at. We have perused the order passed in the review applications as well. In our view, the review petitions have rightly been dismissed.

Counsel for the appellants states that the respondents have sold the land during the pendency of the appeals in this Court. Counsel for the respondents pleads that he has no information on this point. Be that as it may. If the lands have been sold during the pendency of the appeals in this Court, lis pendens would apply.

The appeals are dismissed. Parties to bear their own costs.

.....J.

(ASHOK BHAN)

.....J.

(A.K. MATHUR)

NEW DELHI ;

15TH MARCH, 2005

ITEM NO.104

COURT NO.9

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). 6153-6156 OF 1999

SHANKAR SINGH (DEAD) BY LRS.& ORS.

Appellant

(s)

VERSUS

JAHANGIR SINGH & ORS.

Respondent

(s)

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

Date: 15/03/2005 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE A.K. MATHUR

For Appellant(s) Mr. K.Sultan Singh
 Mr Rishi Malhotra
 Mr. Prem Malhotra ,Adv

 Mr. Rao Ranjit, Adv.

For Respondent(s) Mr. Naresh Kaushik, Adv.
 Mrs Lalita Kaushik,Adv.
 Rr-Ex-Parte ,Adv

UPON hearing counsel the Court made the following

O R D E R

The appeals are dismissed in terms of the signed order.

(Mahabeer Singh)

Court Master

(V.P.Tyagi)

Court Master

(Signed order is placed on the file.)