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C.A.No. 2129 OF 2000
ITEM No.104

Court No. 8

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. 2129 of 2000

TEK CHAND Appellant (s)

VERSUS

STATE OF MADHYA PRADESH Respondent (s)

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

With Civil Appeal No. 2130 of 2000

Civil Appeal No. 1716 of 2003

(With prayer for interim relief and office report)

Civil Appeal Nos.1717 to 1921 of 2003

(With prayer for interim relief)

Date : 13/08/2003 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL

HON'BLE MR. JUSTICE B.N. AGRAWAL

For Appellant (s)Mr. V.R. Reddy,Sr.Adv.

In CA 2129-30/2000:Mr. S.K. Gambhir,Sr.Adv.

Mr. H.K. Puri,Adv.

Mr. Ritu Raj Singh,Adv.

Mr. Awanish Sinha,Adv.

Mr. Anil Sharma,Adv.

In CA 1716-21/2003:Mr. B.S. Banthia,Adv.

For Respondent (s)Mr. D.D. Vyas,Addl.AG.,M.P.

Mr. B.S. Banthia,Adv.

Mr. W.A. Nomani,Adv.

Mr. S.K. Agnihotri,Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the parties from 12.20 p.m. to 2.35 p.m.

Civil Appeal Nos. 2129 of 2000 and 2130 of 2000:

The civil appeals are dismissed.

No order as to costs.

...2/-

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Civil Appeal Nos.1716-1718 and 1720-1721 of 2003:

The civil appeals are allowed.

No order as to costs.

Civil Appeal No. 1719 of 2003:

The appellants shall take steps to serve the unserved respondents. Dasti service, in addition, is permitted.

List after service is complete.

[T.I. Rajput][Shelly Sengupta]
Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2129 OF 2000

Tek Chand ...Appellant(s)

Versus

State of Madhya Pradesh ...Respondent(s)

With Civil Appeal Nos.2130/2000 and 1716-18 & 1720-21/2003

O R D E R

Civil Appeal No. 2129 of 2000:

The defendant in the suit is in appeal in this Court. The respondent-State filed suit claiming compensation and damages of Rs.1,36,000/- with twelve per cent interest for wrongful possession and user of thirty six acres of Government land. The trial court disposed of the suit, partly decreeing it. Aggrieved by the said order, the State filed the first appeal before the High Court. The High Court allowed the appeal and held that the appellant was liable to pay damages at the rate of Rupees ten thousand per annum but while doing so, it vacated all the findings with regard to the nature of lease and observations regarding title.

...2/-

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Mr. V.R. Reddy, learned senior counsel appearing for the appellant, contended that the High Court was not at all justified and right in vacating the findings regarding the nature of lease, namely, that the lease made in favour of the defendant-appellant was a perpetual lease. Learned counsel added that the High Court vacated the findings without any consideration of the material on record and without any discussion.

Per contra, Mr. D.D. Vyas, learned Additional Advocate General appearing for the State of Madhya Pradesh, made submissions supporting the impugned judgement.

As can be seen from the record that was available before the High Court, the High Court, in our view, was right in vacating those findings. The very case of the defendant was that the lease was granted initially for a period of twenty years in favour of the father of the appellant; the appellant applied for renewal of the lease; it is not disputed that there was not even a renewal clause in the lease deed. However, it was sought to be contended that having regard to the oral evidence and other circumstances, the finding that the lease was a perpetual lease could be sustained. We are not in a position to accept this submission, having regard to the

specific term contained in the lease deed and the very foundation of the claim of the appellant. In this view of the matter, we do not find any merit in the appeal. Consequently, the appeal is dismissed but with no order as to costs.

...3/-

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Civil Appeal No. 2130 of 2000:

After hearing learned senior counsel for the appellant and the learned Additional Advocate General for the respondent-State, we are not in a position to find fault with the impugned judgement. The High Court has followed the judgement of this Court and disposed of the writ petition. Thus, finding no merit in the appeal, we have to dismiss this appeal. Accordingly, it is dismissed but with no order as to costs.

At this stage, the learned senior counsel appearing on behalf of the appellant submitted that the appellant had been in possession of the land in question from 1951 to 1985 and he has been in litigation for a long time. The State Government may consider his claim sympathetically for allotment of some portion of the land in question; if not possible, some other small piece of land. In this view of the matter, if the appellant makes a representation to the State Government within a period of six weeks from date, the State Government shall consider the representation within a period of three months from the date of receipt of such representation in accordance with law.

Civil Appeal Nos.1716-1718 and 1720-1721 of 2000:

Heard the learned counsel for the appellants-State.

Despite service of notice on the respondents in these appeals, they have chosen to remain unrepresented.

...4/-

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The respondents filed suits for declaration and permanent injunction. The trial court rejected the plaintiffs taking a view that the suits were barred under Section 57(2) of the Madhya Pradesh Land Revenue Code, 1959. The respondents, feeling aggrieved by and not satisfied with the order passed by the trial court, filed the miscellaneous appeals before the High Court. The High Court, by a common order, reversed the order of the trial court and held that the suits filed by the respondents were maintainable. Hence, these appeals by the State.

Learned counsel for the appellants-State contended that the respondents are not at all in possession of the suit land as of today; the suits were not maintainable and the trial court was right in holding so. Having regard to the averments made in the plaintiffs, we think it would have been appropriate if the defendants-State was allowed to file the written statements and thereafter in the light of the pleadings, the trial court should have framed issues, including the issue as to the jurisdiction of the civil court to try the suits and their maintainability. In this view of the matter, we allow these appeals, set aside the impugned order and direct the trial court to permit the appellants-State to file written statements and in the light of the written statements that may be filed, necessary issues may be framed. It shall be open to the trial court to consider the issue of maintainability of suits in the civil court and dispose them of in accordance with law.

...5/-

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We, however, make it clear that all the contentions of the parties are left open to be raised before the trial court. The trial court may proceed to dispose of the suits uninfluenced by any observations made in the impugned order.

No order as to costs.

.....J.

[SHIVARAJ V. PATIL]

.....J.

[B.N. AGRAWAL]

New Delhi,
August 13, 2003.