

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3929 OF 2009

SHANKARRAO (D) BY LRS. & ORS.

Appellant(s)

VERSUS

TAHIR ALI (D) BY LRS. . & ORS.

Respondent(s)

O R D E R

This appeal is directed against the judgment and order dated 20.9.2004 passed by the High Court of Madhya Pradesh, Bench at Indore in Second Appeal No. 34 of 1993.

The order dated 6.8.2007 of this Court would reveal that on that day, taking note of the fact that despite granting several opportunities to the Appellants to take steps to serve respondent nos. 10, 13 to 16, 18 to 31, 33, 35, 38 to 47, 49 to 52, 54 and 55, special leave petition was dismissed qua the said respondents. The order would also reveal that at the instance of the appellants, respondent nos. 34 and 53 were also deleted from the array of parties.

Of late, on 21.9.2023, this Court passed the following order:-

“Evidently, some of the parties, who were appellants before the High Court in the appeal which was allowed by the High Court entailing dismissal of the suit, were deleted from the array of respondents in the present proceedings, at the instance of the present appellants.

When this fact was brought to the notice of the learned senior counsel appearing for the appellants, the learned counsel sought time to verify the position.”

Heard learned counsel for the appellants and learned counsel appearing for respondent Nos. 1 to 9. Going by the nature of the impugned judgment whereunder after overturning the judgment of the first appellate court, the High Court restored the judgment and decree of the Trial Court dismissing the suit, we are of the view that the said decree is inseparable and therefore, there cannot be any question of permitting the appellants to pursue with the appeal as against the others. In other words, this appeal cannot be maintained only in respect of some of the respondents.

In view of the position thus obtained, viz. dismissal of the appeal as per the order dated 06.08.2007 qua most of the respondents, this appeal is liable to fail. Consequently, this appeal stands dismissed.

Pending application(s), if any, stands disposed of.

.....J.
(C.T. RAVIKUMAR)

.....J.
(PRASHANT KUMAR MISHRA)

NEW DELHI;
NOVEMBER 29, 2023

ITEM NO.105

COURT NO.14

SECTION IV-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 3929/2009

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Date : 29-11-2023 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE C.T. RAVIKUMAR
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Appellant(s) Mr. N.K. Mody, Sr. Adv.
Mr. Prabuddha Singh, Adv.
Mr. Niraj Sharma, AOR
Ms. Tanya Raizada, Adv.
Ms. Mahima Sharma, Adv.

For Respondent(s) Mr. Lokpal Singh, Sr. Adv.
Mr. Ronak Karanpuria, AOR
Ms. Shaifali Singh, Adv.
Mr. Jai Wadhwa, Adv.
Mr. Shashank Gusain, Adv.

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

Civil Appeal is dismissed in terms of the signed order, which is placed on the file.

Pending application(s), if any, stands disposed of.

(DR. NAVEEN RAWAL)
ASTT. REGISTRAR-cum-PS

(MATHEW ABRAHAM)
COURT MASTER (NSH)