

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 585 OF 2010

JANAKI BAI (D) TH.LRS. ... APPELLANT(S)

Versus

**RAGHUNATH PERSHAD (D) BY ... RESPONDENT(S)
LRS. & ORS.**

WITH

CIVIL APPEAL NO. 586 OF 2010

AND

CONTEMPT PETITION (C) No. 16 OF 2010

IN

CIVIL APPEAL NO. 585 OF 2010

CONTEMPT PETITION(C) No. 17 OF 2010

IN

CIVIL APPEAL NO. 585 OF 2010

O R D E R

1. Delay condoned.
2. Application for bringing on record the legal representatives of deceased respondent no. 7 is allowed.

3. Application for discharge of Advocate-on-Record is allowed.

4. These matters were pending since 2005. A Partition suit was filed by the plaintiff-respondent which was dismissed by the Trial Court. However, on appeal, the High Court had partly allowed the same.

5. Aggrieved by the same, the present appeal(s) has been preferred by the defendants and other legal heirs of Janaki Bai.

6. Despite service of notice, no one has appeared for the respondents today.

7. However, there was a request of respondent no.4 to appear and argue in person and that too in Hindi language, as recorded in the order dated 23rd November, 2023. He is also not present today.

8. These appeals deserve to be allowed on a short point which may not prejudice the respondents. As such, we have proceeded to hear these matters and decide the same leaving it open for the respondents to apply for recall of this

order in case they are still aggrieved by the same.

9. The submissions of learned senior counsel appearing for the appellant Mr. V. Chitambaresh is to the effect that Janaki Bai, respondent no. 1 before the High Court had died during the pendency of the First Appeal on 2nd February, 2001. The appellant before the High Court did not take any steps to bring on record the legal representatives of Smt. Janaki Bai. In the first appeal, respondent no. 2 was a tenant in part of the property in question and respondent no. 3 was one of the legal representatives of the appellant before the High Court. As such the main contesting party before the High Court was respondent no. 1 viz. Janaki Bai. The High Court proceeded to partly allow the appeal vide judgment dated 9th September, 2005, which is under challenge before this Court in the present appeal(s). It was further submitted that the judgment of the High Court delivered against the dead person would be a nullity and as such stated to be bad and deserves

to be set aside. The matters be remitted back to the High Court for fresh consideration after bringing on record the legal heirs of respondent no. 1 viz. Janaki Bai.

10. It is also submitted by Shri Chitambaresh that in the counter affidavit filed before this Court the respondents have admitted the fact that during the pendency of the appeal(s) Janaki Bai had died, which fact was in their knowledge and that they had taken legal steps to bring on record the legal representatives in all other pending suits before the City Civil Court, however on account of fault of the lawyer appearing before the High Court, the legal representatives of Janaki Bai could not be brought on record. Such facts are stated in paragraph nos. 8 and 9 of the counter affidavit.

11. In that view of the matter, we are inclined to allow the appeals, set aside the impugned order(s) of the High Court and restore the City Civil Court Appeal No. 26 of 1999 to its original

number(s) to be heard and decided on merits after affording due opportunity to the parties after bringing on record the legal heirs of the deceased parties before the High Court.

12. All necessary steps be taken to bring on record the legal representatives not only of the deceased respondent no. 1 Janaki Bai but also any other party who has died during this period.

13. In view of the above, the contempt petitions shall also stand disposed of.

14. Pending application(s), if any, shall stand disposed of.

..... .J.
[VIKRAM NATH]

..... .J.
[PRASHANT KUMAR MISHRA]

NEW DELHI;
APRIL 18, 2024.

ITEM NO.104

COURT NO.8

SECTION XII-A

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). 585/2010

JANAKI BAI (D) TH.LRS.

Appellant(s)

VERSUS

RAGHUNATH PERSHAD (D) BY LRS. & ORS.

Respondent(s)

(and IA No.104267/2017-CLARIFICATION/DIRECTION and IA No.26371/2018-BRINGING ON RECORD and IA No.26372/2018-CONDONATION OF DELAY IN FILING.

IA No. 26371/2018 - BRINGING ON RECORD

IA No. 104267/2017 - CLARIFICATION/DIRECTION

IA No. 26372/2018 - CONDONATION OF DELAY IN FILING)

WITH

C.A. No. 586/2010 (XII-A)

(and IA No.104374/2017-CLARIFICATION/DIRECTION)

CONMT.PET.(C) No. 16/2010 In C.A. No. 585/2010 (XII-A)

CONMT.PET.(C) No. 17/2010 In C.A. No. 585/2010 (XII-A)

Date : 18-04-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE VIKRAM NATH

HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Appellant(s)

Mr. V. Chitambaresh, Sr. Adv.
Mr. Sardar Jasbeer Singh, Adv.
Mr. Rudrajit Gosh, Adv.
Mr. Kapil Modi, Adv.
Mr. Ramjee Pandey, AOR

Mr. Nar Hari Singh, AOR

Mr. Pramit Saxena, AOR

For Respondent(s)

Mr. Sudarshan Singh Rawat, AOR
M/S. Lawyer S Knit & Co, AOR
Mr. Himinder Lal, AOR

Mr. Pramit Saxena, AOR
Mr. Nar Hari Singh, AOR
Mr. Venkateswara Rao Anumolu, AOR
Mr. Ramjee Pandey, AOR
Respondent-in-person

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

Delay condoned.

Application for bringing on record the legal representatives of deceased respondent no. 7 is allowed.

Application for discharge of Advocate-on-Record is allowed.

The appeals are allowed and the contempt petitions are disposed of in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(SONIA BHASIN)
COURT MASTER (SH)

(RANJANA SHAILY)
COURT MASTER (NSH)

[Signed Order is placed on the file]