

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 5289 OF 2007

ROHINI PRASAD & ORS.

Appellant (s)

VERSUS

SUBHAGIA (DEAD) & ORS.

Respondent(s)

O R D E R

Respondent no. 1 has died and his name is deleted from the array of parties. The LRs of the deceased respondent no. 1 are already on record. IA No. 6 is allowed.

This appeal has been preferred against the judgment and order dated 6.5.2005 passed by the High Court of Madhya Pradesh in F.A. No. 118 of 1989 and MCC No. 1290 of 2005 dated 16.1.2006 by which the High Court has modified to certain extent the judgment and decree dated 10.4.1989, passed by the learned Additional District Judge, Rewa in Civil Suit No. 36A of 1988.

We have heard Mr. S.K. Dubey learned senior counsel for the appellants and Dr. J.N. Dubey, learned senior counsel for the respondents and perused the record.

The High Court has re-appreciated the entire evidence and interfered with the findings of fact to certain extent being fully satisfied that there was no material on record to substantiate the submission advanced on behalf of the appellants that it was their self-acquired property which could not be partitioned among other claimants/brothers.

It has been the case of the appellants that land bearing Survey No. 58/0.15A and 59/0.87A had been purchased on 2.6.1966 for Rs. 1500/- received from in-laws. No evidence whatsoever had been produced to show about the receipt from in-laws by the appellants. None of the in-laws has been examined nor any material is placed on record to show their capacity to pay such an amount in the year 1966 and what were the sources of their income. Similarly, it had been averred that lands in Survey Nos.1119/2(0.40A), 1112/1(1.11A) were purchased from Satyanarayanan out of the independent earning. A statement to this effect does not prove the case. The appellants were in solemn duty to show what were the sources of income; wherefrom the money had come; and in what circumstances, the sale had been made. The same remains the position in respect of the claims about other alleged self-acquired properties.

In view of the fact that the appellants did not lead any evidence to prove their averments, we do not see any cogent reason to interfere with the well reasoned judgment and decree of the High Court.

The appeal lacks merit and is accordingly dismissed.

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

.....J.  
(J. CHELAMESWAR)

ITEM NO.110

Court No.3

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). 5289 OF 2007

ROHINI PRASAD & ORS.

Appellant (s)

VERSUS

SUBHAGIA (DEAD) & ORS.

Respondent(s)

(With appln(s) for deletion of respondents and permission to file additional documents and with office report)

Date: 13/03/2014 This Appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN  
HON'BLE MR. JUSTICE J. CHELAMESWAR

For Appellant(s) Mr. S.K. Dubey, Sr. Adv.  
Mr. M.P. Singh, Adv.  
Mr. Yogesh Tiwari, Adv.  
Mr. Sudarsh Menon, Adv.

For Respondent(s) Mr. J.N Dueby, Sr. Adv.  
Mr. Anurag Dubey, Adv.  
Mr. Meenesh Dubey, Adv.  
Ms. Anu Sawhney, Adv.  
Mr. S.R. Setia, Adv.

Rr-Ex-Parte ,Adv

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

IA No. 6 is allowed.

The appeal lacks merit and is accordingly dismissed in terms of the signed order.

| (DEEPAK MANSUKHANI)  
| Court Master

| (M.S. NEGI)  
| Assistant Registrar

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(Signed order is placed on the file)