

Q1

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL Nos. 339-341 OF 2016  
(Arising out of SLP(C) No.31242-31244 of 2010)

SUBHASH CHAND  
... Appellant(s)

Versus

SUJAN SINGH AND ORS. ETC. ... Respondent(s)

O R D E R

Leave granted.

These are defendants appeal arising out of a suit for declaration of title and injunction filed by the respondents-plaintiffs. Four suits came to be filed before the Civil Judge, Rewari seeking a decree for declaration to the effect that the plaintiffs in each one of those suits is/are the owners of the suit land and for an injunction restraining the defendants from interfering with the possession thereof. The defendant-appellant herein contested the suits on several grounds giving rise to issues which the Trial Court framed and answered against the plaintiffs resulting in dismissal of each one of the said suits.

Aggrieved, the plaintiffs preferred appeals which were heard but dismissed by the First Appellate Court

2

affirming the findings recorded by the court below. It was at that stage that Regular Second Appeals No. 1747 of 1987, 4788 of 2003, 4789 of 2003 and 4790 of 2003 were filed before the High Court of Punjab and Haryana at Chandigarh by the plaintiffs challenging concurrent findings recorded by the courts below. The High Court heard RSA No. 1747 of 1987 and allowed the same by its order dated 13.07.2010. A reading of the operative portion of the order passed by the High Court however shows that not only was RSA 1747 of 1987 allowed and the suit decreed but even connected three appeals were also similarly allowed while setting aside the judgments and decrees passed by the courts below. The suits filed by the plaintiffs in those cases were also decreed. The present appeals, as noticed earlier, call in question the correctness of the judgments and orders passed by the High Court including separate orders/brief orders passed by the High Court allowing RSA Nos. 4788 of 2003, 4789 of 2003 and 4790 of 2003

Appearing for the appellant-defendants M/s. Pramod Kohli and Govind Goel raised a short point before us. They submitted that the High Court had fallen in error inasmuch as it had failed to formulate any substantial question of law for determination in terms of Section 100 of the CPC. They submitted that the High Court had

3

while allowing these appeals reversed concurrent findings of fact recorded by the courts below to the effect that survey numbers, mentioned in the sale deeds, did not tally with the survey numbers mentioned in the suits. It was submitted that the question whether land claimed in the suits was the same as was purchased by the plaintiffs-respondents in terms of the sale deeds was a pure question of fact on which the High Court was confronted with the concurrent findings recorded by the courts below holding that the plaintiff had failed to establish that the two sets of survey numbers related to the same parcels of land. Inasmuch as

the High Court has summarily reversed the finding of fact without formulating any substantial question of law, it has committed a mistake that needs to be corrected. Reliance in support was placed by learned counsel for the appellant-defendant upon decisions in Shiov Cotex Vs. Tirgun Auto Plast Pvt. Ltd. And Ors . (2011 (9) SCC 678), Umerkhan VS. Bismillabi @ Babulal Shaikh and Ors. (2011 (9) SCC 684), Municipal Committee, Hoshiarpur Vs. Punjab State Electricity Board and Ors. (2010 (13) SCC 216), C.A.Sulaiman and Ors. Vs. State Bank of Travancore, Alwayee and Ors. (2006 (6) SCC 392), Sasikumar and Ors. Vs. Kunnath Chellappan Nair and Ors. (2005 (12) SCC 588), Chadat Singh Vs. Bahadur Ram and

4

Ors. (2004 (6) SCC 359), Roop Singh (D) Thr. Lrs . Vs. Ram Singh (D) Thr. Lrs. (2000 (3) SCC 708) and Ishwar Dass Jain (D Thr. Lrs. Vs. Sohan Lal (D) by Lrs . (2000 (1) SCC 434).

On behalf of the plaintiffs-respondents it was per contra argued by Ms. Indu Malhotra, learned senior counsel, that although the High Court had not formally framed any substantial question of law for determination in the appeals, a reading of the order passed by the High Court would clearly show that such question of law did exist inasmuch as the High Court had held that the findings that the two sets of survey numbers one mentioned in the sale deeds and the other in the plaint actually related to the same parcels of land. It was submitted that the High Court had while recording that finding substantially complied with the provisions of Section 100 of the CPC and rightly interfered with the view taken by the courts below.

We have given our anxious consideration to the submissions made at the Bar. That the appeals filed before the High Court arose out of judgments and orders concurrently holding that the plaintiffs-respondents had failed to prove their case, is not in dispute. That the plaintiffs had claimed in the plaint that the suit land was covered by the very same survey number as were

5

given in the sale deeds before consolidation and renumbered after such consolidation as is also evident from a reading of the judgments and orders. Such being the position whether the findings recorded by the courts were vitiated by any illegality or any perversity may have given rise to a substantial question of law but before the High Court could address any such question, it ought to have formulated such a question. A reading of the order passed by the High Court does not suggest that the High Court was indeed conscious of the need for formulation of the substantial question of law that fell for its determination. It is true that the High Court has addressed the question of perversity but even that ought to have been properly formulated as a question and learned counsel for the parties given an opportunity to make their submission on the same.

We accordingly allow these appeals, set aside the orders passed by the High Court and remit the appeals back to the High Court for a fresh disposal in accordance with law after formulating the substantial questions of law, if any, that in its opinion arise for consideration. Since the matter is quite old, we request the High Court to expedite the hearing of the appeals as far as possible within a period of one year from the date a copy of this order is received by it.

6

No costs.

.....CJI.  
(T.S.THAKUR)

.....J.

(A.K.SIKRI)

.....J.

(R.BANUMATHI)

New Delhi,  
Dated: 18 th  
January, 2016.

7

ITEM NO.25

COURT NO.1

SECTION IVB

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

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) Nos.31242-31244/2010  
(Arising out of impugned final judgment and order dated 13/07/2010  
in RSA No. 4788/2003,13/07/2010 in RSA No. 4789/2003,13/07/2010 in  
RSA No. 4790/2003 passed by the High Court of Punjab & Haryana at  
Chandigarh)

SUBHASH CHAND

Petitioner(s)

VERSUS

SUJAN SINGH & ORS. ETC.

Respondent(s)

(with appln. (s) for exemption from filing O.T. and permission to  
file additional documents and interim relief and office report)  
(For final disposal)

WITH

SLP(C) No. 31557/2010

(With appln.(s) for exemption from filing O.T. and permission to  
file additional documents and Interim Relief and Office Report)

(For final disposal)

SLP(C) No. 10368/2012

(With appln.(s) for c/delay in filing SLP and Office Report)

(For final disposal)

Date : 18/01/2016 These petitions were called on for hearing today.

CORAM :

HON&#39;BLE THE CHIEF JUSTICE

HON&#39;BLE MR. JUSTICE A.K. SIKRI

HON&#39;BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Mr. Pramod Kohli, Sr. Adv.

Mr. B.S.Mor, Adv.

Mr. Subhas Sharma, Adv.

Mr. Neeraj Mor, Adv.

Mr. R. C. Kaushik, Adv.

Mr.Govind Goel, Adv.

Mr.Ankit Goel, Adv.

Mr. Nilkamal Datta, Adv.

Mr.Nitesh Kumar Singh, Adv.

Dr. Kailash Chand, Adv.

8

Mr. D.K.Sharma, Adv.

Mr.Subhash Sharma, Adv.

For Respondent(s) Ms. Indu Malhotra, Sr. Adv.

Mr. Neeraj Jain, Sr. Adv.

Mr. V.Prakash, Sr. Adv.

Mr.Siddharth Mittal, Adv.

Mr.Surender Singh, Adv.

Dr. (Mrs. ) Vipin Gupta, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Delay condoned.

Leave granted.

The appeals are allowed in terms of the signed order.  
(Shashi Sareen) (Saroj Saini)  
AR-cum-PS Court Master  
(Signed order is placed on the file)