

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. 5059 OF 1999

SHREE NARAYAN SINGH

Appellant

(s)

VERSUS

SURAJ NARAYAN GUPTA AND ORS.

Respondent

(s)

(With office report)

Date: 10/02/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE A.K. MATHUR

For Appellant(s)

Mr. Sunil Kumar, Sr. Adv.

Mr. Praveen Chaturvedi, Adv.

Ms. Mridula Ray Bharadwaj, Adv.

For Respondent(s)

Mr. Prabhash Kr. Yadav, Adv.

Mr. C.Yadav, Adv.

Dr. Krishan Singh Chauhan, Adv.

Ms. Halida Khatun ,Adv

UPON hearing counsel the Court made the following

O R D E R

The Civil Appeal is dismissed in terms of the signed order.

(Parveen Kr. Chawla)

(Kanwal Singh)

Court Master

Court Master

[Signed Order is placed on the File]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5059 of 1999

Shree Narayan Singh

Appellant (s

Versus

Suraj Narayan Gupta & ors.

Respondent (s

O R D E R

This appeal is directed against an order passed by a Single Judge of the High Court of Judicature at Patna in C.R. No. 1017 of 1997. By the impugned order the High Court has dismissed the revision petition and upheld the order passed by the trial court.

One Raghubar Narayan Singh, father of Shree Naraya

Singh, appellant herein, was the Managing Trustee of Rai Bahadur

Dilip Narayan Singh Trust Estate. Respondent No.1 Suraj Narayan

Gupta was a tenant of the suit premises. Raghubar Narayan Singh

filed Eviction Suit No. 15 of 1992 seeking eviction of respondent No.1

from the suit premises. During the pendency of the suit., Raghubar

Narayan Singh died leaving behind his son the appellant herein and

two wives Prem Lata Devi and Muneshwari Devi, respondent Nos. 2 &

3 herein. Raghubar Narayan Singh had executed a General Power of

Attorney in favour of one of his wives Prem Lata Devi authorising her

to deal with the property, which the appellant is contesting in the title

suit. Prem Lata Devi and Muneshwari Devi have died during the

pendency of the appeal in this Court. There is no need to bring their

legal representatives on record as the appellant being the son of

Raghubar Narayan Singh is already on the record.

Prem Lata Devi had entered into a compromise with Suraj

Narayan Gupta, respondent No.1 and moved an application to

withdraw the suit. On an application moved by the appellant, he was

brought on the record as a co-plaintiff. The suit was dismissed as

withdrawn in spite of objections raised by the appellant that Prem Lata

Devi did not have the power to enter into a compromise with

respondent No.1.

Aggrieved against the order passed by the trial court, the

appellant filed Civil Revision No. 1017 of 1997 which has been

dismissed by the impugned order. It was observed by the High Court that respondent No.1 had filed a suit for specific performance of an agreement entered into by Prem Lata Devi with him for sale of the property and she had already executed a sale deed in his favour. In view of the fact that respondent No.1 had already become the owner, the contest to the eviction suit by the appellant had become infructuous. Against the judgment and decree in Title Suit No. 50 of 1988, filed by respondent No.1 for specific performance, an appeal is still pending in the High Court being First Appeal No. 513 of 1996.

Heard counsel for the parties.

Counsel for the appellant has argued that the findings recorded in the Revision Petition would prejudice his case before the High Court in F.A. No. 513 of 1996. We find force in this submission.

Accordingly, we dismiss the appeal with the observation that the High Court while deciding the First Appeal No. 513 of 1996 would not influence itself by any of the observations made in the impugned order and shall decide the same on its own merits on the basis of the evidence present on the record in F.A. 513 of 1996. It is made clear that if the appellant ultimately is found to be the owner of the suit property then he would be at liberty, if so advised, to move afresh seeking eviction of the respondent No.1 from the suit property. This order be taken as if we are holding that Prem Lata Devi had either the power to enter into compromise in the eviction suit or in the suit for

specific performance of the agreement with the respondent.

Nothing stated herein shall be taken as an expression of opinion on the merits of this case.

With these observations, this appeal is dismissed with no order as to costs.

..J.

.....
(ASHOK BHAN)

New Delhi;
...J.
February 10, 2005.

.....
(A.K. MATHUR)