

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8222 OF 2012
(Arising out of S.L.P. (C) No.4493 of 2007)

Anju Verma ...Appellant

Versus

Priya Ranjan Bhagat & Ors. ...Respondents

O R D E R

Leave granted.

This appeal arises out of a Judgment and Order dated 9.9.2004 passed by the High Court of Jharkhand at Ranchi allowing AOD No.379 of 1991 and order dated 3.11.2006 dismissing CMP No.467 of 2006 for recall of the said judgement and order.

Title Partition Suit No.86 of 1988 filed by Priya Ranjan Bhagat and Rakesh Ranjan before the Sub Judge V at Ranchi was decreed by the said Court in terms of a Judgment and Order dated 13.09.1991 qua properties mentioned in Schedules A, B and C to the Plaint. The suit was, however, dismissed qua property mentioned in Schedule D to the plaint.

Aggrieved by the dismissal of the suit qua property mentioned in Schedule D, the plaintiffs preferred AOD No. 379 of 1991 in which Pradeep Kumar Bhagat was arrayed as respondent No.1. Shri Bhagat was, it appears, passed away in United States of America sometimes in January/February 2001. An application for substitution of the legal representatives left behind by the said Shri Bhagat appears to have been filed in which the High Court passed an order of substitution on 28.2.2003 bringing on record the widow and three daughters left behind by the deceased. Out of the legal representatives so added, the widow entered appearance along with one of the daughters but the remaining two daughters remained unrepresented. There is some controversy whether or not they were duly served in the appeal. Be that as it may, the High Court considered the service upon the said two legal representatives also to be sufficient and accordingly proceeded to dispose of the appeal decreeing the suit qua property mentioned in Schedule D also.

Nearly two years after the disposal of the AOD No.379/91, CMP No.467/2006 was filed on behalf of Anju Verma, one of the daughters left behind by the deceased inter alia praying for setting aside of the order passed by the High Court in AOD No.379 of 1991 on the ground that the applicant had not been served with any notice nor afforded any opportunity of being heard in the matter. That application as noticed above was dismissed by a non-speaking order passed by a Single Judge of the High Court on 3.11.2006. It is in the above background that the present appeal has been filed by the appellant-Anju Verma, not only questioning the order passed in CMP No.467/2006 but also order dated 09.09.2004 passed by the High Court in AOD No.379/1991.

We have heard learned counsel for the parties at some length and perused the Judgments and Orders under appeal as also other orders and documents to which our attention was drawn by Mr. Mukherjee, counsel appearing for the respondent and Mr. Pradeep Dahiya, proxy counsel for

the appellant. We need not advert in detail to the submissions that were urged before us at considerable length by learned counsel for the parties. We say so because after the matter was fully argued, Mr. Mukherjee fairly conceded that in order to avoid any complication in future regarding the validity of the decree qua D Schedule property, it would be more appropriate if the matter is remanded back to the High Court for a fresh hearing and disposal of the appeal by affording to each one of the parties an opportunity to make their submissions. He submitted that since the suit was filed as early as in the year 1988, this Court could request the High Court to dispose of the appeal afresh within the shortest period possible. It was also submitted by Mr. Mukherjee that since all the legal heirs left behind by deceased Shri Pradeep Bhagat have already entered appearance in this Court, this Court could direct that no further notice need be served upon them and that they could make suitable arrangements for representation before the High Court without any further notice. In the circumstances, therefore, and keeping in view the concession made at the Bar, we find no difficulty in setting aside the Judgment and Order passed by the High Court and remanding the matter back to that Court for a fresh hearing and disposal in accordance with law.

We, accordingly, allow this appeal, set aside the order passed by the High Court dated 3.11.2006, allow CMP No. 467/2006 and set aside the order dated 9.9.2004 passed by the High Court in AOD No. 379 of 1991. The High Court may now re-hear the appeal in question afresh and pass appropriate orders in accordance with law as expeditiously as possible and preferably within six months from the date the parties appear before it. The parties are directed to appear before the High Court either personally or through their counsel on 03.12.2012. We make it clear that no further notice shall be necessary to be served to any of the parties and the Court shall be free to proceed ex-parte against anyone absenting from hearing. We make it clear that Abha Bhagat, Ritu Bhagat and Saroj Bhagat, legal representatives left behind by Shri Pradeep Bhagat may make arrangement for their representation before the High Court failing which adverse consequence may follow against them. The appeal is allowed with the above directions leaving the parties to bear their own costs.

.....J.
(T.S. Thakur)

.....J.
(Gyan Sudha Misra)

New Delhi,
November 22, 2012

Petition(s) for Special Leave to Appeal (Civil) No(s).4493/2007
(From the judgement and order dated 09/09/2004 in DN No.379/1991 dated
03/11/2006 in CMP No.467/2006 of The HIGH COURT OF JHARKHAND AT RANCHI)

ANJU VERMA

Petitioner(s)

VERSUS

PRIYA RANJAN BHAGAT & ORS.

Respondent(s)

(With appln(s) for stay,permission to file rejoinder affidavit,permission
to file additional documents,impleadment as party respondent and prayer for
interim relief and office report)

Date: 22/11/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s) Mr. Pradeep Dahiya,Adv.
Mr. Shashank Sekhar,Adv.
Mr. Bachchan Singh,Adv.
Mr. Achin Mittal,Adv.
Mr. Devashish Bharuka,Adv.

For Respondent(s) Mr. Ranjan Mukherjee,Adv.
Mr. S.C. Ghosh,Adv.
Mr. S. Bhowmick,Adv.
Mr. R.P. Yadav,Adv.
Ms. Priya Ranjan Bhagat,Adv.

Ms. Manita Verma,Adv.
Mr. S.K. Sinha ,Adv.

Ms. Manika Tripathy Pandey ,Adv
Mr. Ashutosh Kaushik,Adv.

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

Leave granted.
The appeal is allowed in terms of the signed order.

|(N.K. Goel)
|Court Master

|(Veena Khara)
| Court Master

(Signed order is placed on the file)