

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 7278-7279 OF 2001

VIKRAM SINGH

Appellant (s)

VERSUS

BACHCHAN & ORS.

Respondent(s)

O R D E R

The litigation started in 1972 when the appellant filed an application on 14.12.1972 before the Consolidation Officer as the Consolidation proceedings under the U.P. Consolidation of Land Holdings Act, 1953 (hereinafter being referred to as "the Act") had commenced claiming Sirdari rights in the four and a half bighas in Khata No. 10 claiming to be a sub-tenant qua the respondents in consolidation proceedings.

The said application was allowed by the Consolidation Officer declaring the appellant/applicant entitled to have the Sirdari rights in the said land vide order dated 14.12.1972.

Aggrieved, the predecessors-in-interest and some of the respondents herein challenged the said order dated 14.12.1972 by filing an appeal and the appeal was accepted by the Settlement Officer, Consolidation vide order dated 13.2.1973 by way of which the Appellate Authority set aside the order dated 14.12.1972 and remanded the case to the Consolidation Officer to decide afresh.

The Consolidation Officer in pursuance of the order of the Appellate Authority decided the matter afresh vide order dated 29.6.1974 declaring that the appellant/applicant was entitled to have Sirdari rights to the extent of four and a half bighas of land in Khata No. 10.

The appeal against the said order was dismissed by the Settlement Officer, Consolidation, vide order dated 16.7.1975.

Aggrieved, the respondents and their predecessors-in-interest filed revision petition before the Deputy Director, Consolidation under Section 48 of the Act, 1953. During the pendency of the said revision petition, respondent no. 4 Gorakhnath Singh died and no application for substitution of his legal representatives was filed. In such a fact situation, the question arose as the Khata was joint and there had been no partition in the revenue records by meets and bounds, or whether the revision stood abated only qua the said respondent no. 4 namely, Gorakhnath Singh or in toto.

However, without taking note of the death of respondent no. 4, Deputy Director, Consolidation allowed the revision petition vide order dated 18.4.1978.

Aggrieved, the appellant filed writ petition before the High Court challenging the order of the Revisional Authority without mentioning about the death of respondent no. 4 therein. During the pendency of the writ petition before the High court, respondent nos. 5 and 6 Mukhlal and Ram Badan also died. The appellant filed an application before the High Court for substitution of the respondents 4, 5 and 6. The High Court passed the order dated 26.9.1996 as under:-

"List has been revised. None is present to press the writ petition. The writ petition is dismissed for want of prosecution except against Gorakhnath, Mukhlal and Ram Badan (Opposite Parties No. 4 to 6) as writ petition against them already abated and none has appeared to press the application for setting aside abatement, which is rejected."

Thus, it is evident from the aforesaid order that writ petition qua respondent nos. 4, 5 & 6 stood abated and qua respondent nos. 1, 2 & 3, it was dismissed in default.

The writ petition was decided on merits vide order dated 11.9.1998 and it was dismissed without taking note of any abatement qua respondent nos. 4, 5 and 6 or death of any of the parties.

Aggrieved, appellant filed a review petition before the High Court which was dismissed vide order dated 3.12.1999. Hence, the two appeals have been filed by the appellant against the said orders of the High Court, one dismissing the writ petition and another, dismissing the review petition.

During the pendency of these appeals, this Court vide order dated 16.10.2001 allowed the application filed by the appellant for substitution of LRs of respondent nos. 4 to 6. However, the respondents filed an IA no. 17 and 18 for recalling of the order dated 16.10.2001 which was decided vide order dated 22.03.2004 and according to the said order, as the respondent no. 4 had died when the revision was pending before the Deputy Director, Consolidation and applicants failed to bring the LRs of respondent no. 4 on record, the LRs of respondent no. 4 were allowed to be retained but so far as the respondent nos. 5 and 6 are concerned, to that extent, the order dated 16.10.2001 was recalled.

Today, we have been informed that even the LR of respondent no. 4 who had been brought on record by the order of this Court dated 16.10.2001 had died when the writ petition was pending before the High Court and his LRs have never been brought on record. Thus, the position remains that only contesting respondent nos. 1 to 3 survive and these appeals have to be decided only qua them and the remaining respondents are the proforma respondents supporting the case of the appellant.

These appeals raises two questions as to whether the abatement of the proceedings before the Revisional Authority as well as before the High Court stood abated as a whole or only qua those respondents and even in pursuance of the order passed by this Court on 22.03.2004 and today. Admittedly, even if the cause of action is severable, the appellant cannot claim any relief against the LRs of respondent nos. 4, 5 and 6 as they are not on record. Thus, the cause of action survives only against the respondent nos. 1 to 3 and arithmetically, the claim of the appellant stood reduced to 1/3rd of four and a half bighas in the agricultural land in Khata No. 10

situate in Village Sinhla, District Ghazipur.

We have heard learned counsel for the parties and perused the record.

The litigation is pending since 1972 and a period of about four decades is already over. We do not see any reason to decide the complicated legal issues involved in this case as to whether the whole proceedings stood abated or not. In order to meet the ends of justice, it is desirable that respondent nos. 1 to 3 would jointly pay a sum of Rs. 1 lakh to the appellant to bring the litigation to an end. The amount shall be paid within six weeks from today.

With these observations, the appeals stand disposed of.

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

.....J.
(FAKKIR MOHAMED IBRAHIM KALIFULLA)

NEW DELHI
MARCH 04, 2013.

ITEM NO.102

Court No.7

SECTION XII

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). 7278-7279 OF 2001

VIKRAM SINGH

Appellant (s)

VERSUS

BACHCHAN & ORS.

Respondent(s)

(With office report)

Date: 04/03/2013 These Appeals were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA

For Appellant(s) Mr. Tripurari Ray, Adv.

Mr. B.S. Bilowria, Adv.
Mr. Ashutosh Dubey, Adv.
for Mr. Vishwajit Singh, Adv.

For Respondent(s)

Mr. T.N. Singh, Adv.
Mr. Vikas K. Singh, Adv.
Ms. Rajshree Singh, Adv.

Mr. Vishnu Sharma, Adv.
Ms. Anupama Sharma, Adv.
Mr. Rajendra Singh, Adv.

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

The appeals stand disposed of in terms of the signed order.

| (DEEPAK MANSUKHANI) | (M.S. NEGI) |
| Court Master | Court Master |

(Signed order is placed on the file)