

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). 1420 OF 1999

Fatma Bi (Dead) By L.Rs.

& Anr.

Appellant (s)

VERSUS

Gulshan Bai (Dead) by L.Rs.
Respondent(s)

(With office report)

Date: 05/04/2005 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. M. Mohsin Israilly, Adv.
Ms. Sangeeta Kumar, Adv.

For Respondent(s) Mr. Syed Ali Ahmad, Adv.

Mr. Syed Tanweer Ahmad, Adv.
Mr. S.S. Bandyopadhyay, Adv.
Mr. Mohd. Shah Nawaz Hasan, Adv.
Mr. Syed Tanweer Akhtar, Adv.
Mr. Mohan Pandey, Adv.UPON hearing counsel the Court made the following
O R D E R

Fatma Bi (defendant-appellant) and Gulshan Bai (plaintiff-respondent)

in the suit are the co-widows of Abdul Aziz. They were married to Abdul Aziz

in the year 1944 and on 23rd September, 1951 respectively. Both Fatma Bi and

Gulshan Bai now deceased are being represented through their respective L.Rs.

Sahib Bi, the mother of Abdul Aziz, was not happy with the second marriage

contracted by Abdul Aziz and accordingly turned him out of the house, i.e.,

3/198, Baijnathpara, Raipur. On 4th of March, 1953, Sahib Bi who was the

owner of the property, sold the same to her daughter Qamarunnisa for a sum of Rs.2,000/-. Abdul Aziz tried to re-enter the parental home along with Gulshan Bai in the year 1955, which was not allowed by his mother Sahib Bi and his sister Qamarunnisa. On 8th of October, 1957, Abdul Aziz exchanged the original house bearing No. 7/324 with the present house No. 3/198, Baijnathpara, Raipur, owned by Madarsa Arbia Islamia. On 17th of April, 1965, Abdul Aziz executed the registered Mehrnama in favour of Gulshan Bai. By the said Mehrnama, Abdul Aziz gave house No. 7/324 to Gulshan Bai in lieu of the Mehr (dawar). On 1st of March, 1973 Abdul Aziz died. On 11th April, 1977 a suit was filed by Gulshan Bai for eviction of Fatma Bi, i.e., the appellant-herein from the portion occupied by her in the house in dispute, claiming herself to be the owner of the house on the basis of the aforesaid Mehrnama.

Trial Court decreed the suit.

In appeal, the first Appellate Court reversed the judgment and decree passed by the Trial Court and dismissed the suit.

The High Court by the impugned order has reversed the judgment and decree passed by the first Appellate Court and restored that of the Trial Court.

On 13th January, 1955, Qamarunnisa is alleged to have sold the house in dispute in favour of her brother Abdul Aziz. The document of sale has not been produced in evidence though a copy of the same has been produced before us. Application under Order 41 Rule 27 CPC has also not been filed to adduce additional evidence.

After hearing the counsel for both the parties and in view of the fact that the parties are closely related and that of them are claiming ownership of the property in dispute through one and the same person, i.e., Abdul Aziz, we suggested to the respective counsel to explore possibilities of a settlement between the parties.

To come up on 27th of April, 2005 as part-heard.

(J.S. Rawat)
ra)
Court Master
aster

(Phoolan Wati Aro
Court M