

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.5505 OF 2008

ST. PATRICKS TOWN COOP. HSG.
SOCIETY LTD.

APPELLANT(S)

VERSUS

M/S. SHRADDHA ASSOCIATES & ORS.

RESPONDENT(S)

O R D E R

Heard learned counsel for the parties.

The case has a chequered history. Earlier the dispute was filed by the Members of the Marian Town Co-operative Housing Society against the Marian Town Co-operative Housing Society and St. Patrick's Town Co-operative Housing Society Limited in the Co-operative Court, Pune under the provisions of Section 91 of the Maharashtra Co-operative Society Act, 1960 (for short "the Act"). The matter travelled to the High Court and High Court by judgment and order dated 19th November, 1997 in Writ Petition No.1184 of 1995 held that the kind of dispute that was raised was not maintainable within the purview of Section 91 of the Act and set aside the order passed by the Co-operative Court, Pune and Appellate Tribunal. An L.P.A. was preferred against the same

decision which was dismissed. That order was questioned in Special Leave Petition (C) No.10230 of 1998 in this court which was also dismissed by order dated 22nd March, 2001. Thereafter, St.Patrick Town Coop. Housing Society Ltd. had filed a suit before the civil court. A prayer was made to declare defendant No.1 and 2 as trespassers, restoration of possession and permanent injunction to set aside the order passed by the Cooperative Court, Pune as well as by the Cooperative Appellate Tribunal which was also set aside by the High Court. The objection as to jurisdiction of the civil court was rejected and vide order dated 15th January, 2002 the civil court ordered the return of plaint holding that Co-operative Court will have jurisdiction. Aggrieved by the same, writ petition was preferred in the High Court. The writ petition has been dismissed by the impugned order, hence the appeal has been preferred.

In the instant case, *prima facie*, it appears that the civil court would have the jurisdiction to decide the case. As such we set aside the order passed by the civil court as well as by the High Court and leave the question to be decided at the time of final decision of the case, as certain facts are disputed. The trial court shall not be influenced by the observations made in the impugned orders passed by the High Court. Let the evidence be

recorded and the case be decided in accordance with law on all issues as early as possible preferable within a period of one year from today.

Accordingly, the appeal is allowed, the impugned orders are set aside. No costs.

.....J.
(ARUN MISHRA)

.....J.
(AMITAVA ROY)

NEW DELHI,
JANUARY 30, 2018.

ITEM NO.101

COURT NO.10

SECTION IX

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

Civil Appeal No(s).5505/2008

ST. PATRICKS TOWN COOP. HSG. SOCIETY LTD. Appellant(s)

VERSUS

M/S. SHRADDHA ASSOCIATES & ORS. Respondent(s)

(matter is restored to its original number vide hon'ble courts order dated 23.10.2017 in MA 1070/2017)

Date : 30-01-2018 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE AMITAVA ROY

For Appellant(s)

Mr.P.P.Malhotra, Sr.Adv.
Mr.Arun Bhardwaj, Adv.
Mr.Karan Bhardwaj, Adv.
Mr.Karan Yadav, Adv.
Ms.Shilpa Singh, AOR

For Respondent(s)

Mr.Nitin Sangra, Adv.
Mr.Prasenjit Keswani, Adv.
Mr.Satyajit Saha, Adv.
Ms.Devika Khanna, Adv.
Mrs.V.D.Khanna, Adv.

M/s. AP & J Chambers

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

The civil appeal is allowed in terms of the signed order.

(Ashok Raj Singh)

Court Master

(Signed Order is placed in the file)

(Jagdish Chander)

Court Master