

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL No.3168 OF 2009

JITENDRA SINGH @ KUNWAR PAL SINGH

.....APPELLANT

VERSUS

BRIJENDRA SINGH (D) THR.LRS. & ORS.

.....RESPONDENTS

O R D E R

Heard Mr.V.K.Shukla, learned counsel for the appellant and Mr.S.R.Singh, learned senior counsel for the respondents.

The present appeal by special leave assails the judgment and order dated 22.11.2005 passed in Civil Misc.W.P.No.45233/2003 wherein the learned Single Judge of the High Court of Judicature at Allahabad affirmed the order passed by the Revisional Authority (Deputy Director, Consolidation), who in exercise of the authority under the Uttar Pradesh Consolidation of Holdings Act, 1953 (for brevity, 'the Act'), has given the stamp of approval to the order passed by the appellate authority (Settlement Officer, Consolidation).

The facts lie in a narrow compass. After there was issue of extracts from records and statements and publication of records mentioned in Sections 8 and 8-A and the issue of notices for

inviting objections, as stipulated under Section 9 of the Act, the parties entered into a compromise. The Assistant Consolidation Officer, under Section 9-A of the Act, has been authorised to conciliate and record a compromise. The same was done on 13.11.1981. The appellant, as alleged, was unaware of it and eventually preferred an appeal before the appellate authority, namely, the Settlement Officer, Consolidation on 28.01.1995. The appellate authority observed that there was a delay and recorded a compromise between the parties. Be it noted, the initial compromise before the Assistant Consolidation Officer was that the appellant shall get 1/5th share of the property out of 1/3rd share and other legal heirs shall get 4/5th share of the property out of 2/3rd share.

In fact Barfi Devi, wife of one Jahan Singh, executed a will on 23.03.1982 by virtue of which 4/5th share amongst the four sons of Mahabir Singh were divided. We may immediately state that we are not concerned with the will. In appeal against the compromise that was arrived at between the parties on 26.03.1997, the Settlement Officer gave 1/5th share to the appellant out of 4/5th share and the remaining share was given to the contesting respondents.

As the factual matrix would further unfold, Veerbala, wife of late Ravendra Singh (respondent No.3 herein) filed an application for recall of the order dated 26.03.1997 before the Settlement Officer, Consolidation and the appellate authority recalled his order and dismissed the appeal on the ground of limitation and on merits vide order dated 01.05.2003. Against the

order of the Settlement Officer, Consolidation dated 01.05.2003, the appellant filed a revision which has been dismissed by the Deputy Director, Consolidation vide order dated 06.09.2003. Against the aforesaid order, a Writ petition was preferred and the High Court, as stated earlier, dismissed the same.

Mr.V.K.Shukla, learned counsel appearing on behalf of the appellant would contend that the compromise entered into between the parties before the Assistant Consolidation Officer is a fake one. Mr.S.R.Singh, learned senior counsel for the respondents would submit that there was no compromise before the Settlement Officer(Consolidation). The said aspect need not be gone into.

On a perusal of the record, it is absolutely clear that the appellant has accepted compensation for 1/5th share in the property in the year 1987. Mr.Shukla, with all the fairness in his command, would submit that the entire property was not acquired but some of it was acquired. Be that as it may, we are stating this fact for the purpose of indicating knowledge of the appellant with regard to the consolidation proceedings. That apart, whatever the portion of the property was acquired, the appellant should have put forth a claim of 1/3rd share in respect of that. The appellant chose not to do so and on the contrary, he accepted compensation for 1/5th share of the property.

In view of the aforesaid, we think that the appellate authority was justified in not condoning the delay and the High Court has correctly affirmed the same.

Be it noted, the appellate authority as well as the revisional authority had also adverted to the case on merits.

In view of the limitation in preferring the appeal and also in view of the concurrent findings with regard to merits, we are not inclined to interfere with this appeal and accordingly the same stands dismissed. In the facts and circumstances of the case, there shall be no order as to costs.

.....CJI.
(DIPAK MISRA)

.....J.
(A.M.KHANWILKAR)

.....J.
(Dr.D.Y.CHANDRACHUD)

NEW DELHI;
MAY 08, 2018.

ITEM NO.101

COURT NO.1

SECTION III-A

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).3168/2009

JITENDRA SINGH @ KUNWAR PAL SINGH

Appellant(s)

VERSUS

BRIJENDRA SINGH (D) THR.LRS.& ORS.

Respondent(s)

(PART-HEARD BY HONBLE THE CHIEF JUSTICE, HONBLE A.M. KHANWILKAR AND
HONBLE DR. D.Y. CHANDRACHUD, JJ.)

Date : 08-05-2018 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Appellant(s) Mr.V.K.Shukla, Adv.
 Mr.Himanshu Tyagi, Adv.
 Mr.Ashwani Bhardwaj, AOR

For Respondent(s) Mr.S.R.Singh, Sr.Adv.
 Ms.Vandana Sharma, Adv.
 Mr.Ankur Yadav, Adv.
 Ms.Sunita Pandit, Adv.
 Ms.Shweta Yadav, Adv.
 Ms. Namita Choudhary, AOR

Ms. Anita Bafna, AOR

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

In view of the limitation in preferring the appeal and also in view of the concurrent findings with regard to merits, we are not inclined to interfere with this appeal and accordingly the same stands dismissed. In the facts and circumstances of the case, there shall be no order as to costs.

(Chetan Kumar)
Court Master

(H.S.Parasher)
Assistant Registrar

(Signed order is placed on the file)