

ITEM NO.28

COURT NO.11

SECTION IVB

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).9144/2011

(From the judgement and order dated 23/11/2010 in CR No. 4756/2009 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

RAJA RAM AND ORS.

Petitioner(s)

VERSUS

KISHAN & ORS.

Respondent(s)

(With prayer for interim relief)

Date: 11/04/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr. N eeraj Kumar Jain, Sr.Adv.
Mr. Sanjay Singh, Adv.
Mr. Umang Shankar,Adv.
Mr. Sushant Kumar, Adv.

For Respondent(s)

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

Having failed to convince the learned Single Judge of the Punjab and Haryana High Court to set aside the order passed by Civil Judge (Senior Division), Jind, who dismissed the application filed by them under Sections 151 and 152 of the Code of Civil Procedure (for short, "CPC")for correction of judgement and decree dated 1.12.1971 passed in Suit No. 329 of 1971, the petitioners have filed this petition.

The suit filed by the petitioners for

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declaration that they are owners of the suit land was decreed by the trial Court on 1.12.1971 on the basis of compromise arrived at by the parties. Suit No. 313 of 1980 filed by Hari Singh and others against Roop Chand and others was likewise decreed on the basis of compromise arrived at between the parties. Suit No. 360 of 1989 filed by Baru and others against Smt. Phimo and others was decreed by the trial Court in view of the admission made by the defendants.

After 34 years of disposal of the first suit, the petitioners filed an application under Section 151 and 152 of the CPC. The learned Civil Judge, after due consideration of the pleadings of the parties, dismissed the application on the ground of delay and also on merits.

The learned Single Judge of the High Court dismissed the civil revision filed by the petitioners by recording the following observations:

"Undisputedly, decree dated 01.12.1971 was passed in view of the amicable settlement between the parties. Correction of the decree dated 01.12.1971 was sought after more than three decades. I do not think that decree can be amended after the lapse of more than 34 years. Undisputedly, both the parties have moved mutation applications and got mutation done in accordance with a consent decree dated 01.12.1971. Had there been any mistake, parties would have not moved mutation application. Moving mutation application and getting the mutation done pursuant to the decree dated 01.12.1971 shall bar present correction application in view of the principles of waiver, acquiescence and estopple."

We have heard Shri Neeraj Kumar Jain, learned senior counsel appearing for the petitioners.

In our

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view, the reasons assigned by the Civil Judge and the learned Single Judge of the High Court for refusing to entertain the application filed by the petitioners under Sections 151 and 152 of the CPC do not suffer from any legal infirmity and the special leave petition is liable to be dismissed being wholly meritless. Ordered accordingly.

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master