

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 266 OF 2009

DOMAN SINGH & ANR.

Appellant (s)

VERSUS

PAKOIYA DEVI & ORS.

Respondent(s)

ORDER

The present appeal is directed against the judgment and order dated 11th November, 2003 in the Second Appeal No. 56 of 2003 passed by the learned Single Judge of the High Court of Jharkhand at Ranchi, whereby he has treated the judgments and decrees passed by the fora below as impeccable.

Be it noted, the Court of first instance, had considered the preliminary issue under Order 14 Rule 2 of the Code of Civil Procedure (for short 'the CPC') and dismissed the suit on the ground that it was barred under Section 43 of Bihar Land Reforms (Fixation of Ceiling Area & Acquisition of Surplus Land) Act, 1961 (for short 'the Act'). The said judgment and decree have been upheld by the first appellate Court as well as the High Court.

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Section 43 of the Act reads as follows:

43. Bar of jurisdiction of Civil Court--

1. Save and except as provided in this Act, no Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act, required to be settled, decided or dealt with by the Board of Revenue, the appellate authority or the Collector.
2. No order of the Board of Revenue, the appellate authority or the Collector made under this Act, shall be questioned in any Court.

In the case at hand, it is not in dispute that the Board of Revenue had allowed the Revision preferred by the Defendant No. 2. The plaintiff, being aggrieved by the same, had preferred C.W.J.C. No. 372 of 1991 (R) before the Patna High Court at Ranchi Bench and the High Court had accepted the judgment rendered by the Board of Revenue as correct.

Regard being had to the two issues, namely, an order passed by the Board of Revenue under the Act is not to be called in question in a Civil Suit in view of the language employed in Section 43 of the Act, and, secondly, the Civil Court could not have entertained suit after dismissal of the writ petition on merits, we find that the judgment passed by the learned Single Judge cannot be found fault with and accordingly, we concur with the same.

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In the result, the appeal, being devoid of merit, stands dismissed without any order as to costs.

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

.....J.
(DIPAK MISRA)

NEW DELHI,
23-05-2012

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ITEM NO.107

COURT NO.5

SECTION XVII

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). 266 OF 2009

DOMAN SINGH & ANR.

Appellant (s)

VERSUS

PAKOIYA DEVI & ORS.
(With prayer for interim relief and office report)

Respondent(s)

Date: 23/05/2012 This Appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE DIPAK MISRA
(VACATION BENCH)

For Appellant(s) Mr. Pawan Upadhyay, Adv.
Mr. Pawan Kishore Singh, Adv.
Ms. Amisha Upadhyay, Adv.
Ms. Sharmila Upadhyay, Adv.

For Respondent(s)

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

The appeal stands dismissed in terms of the signed order.

(G. SUDHAKARA RAO)
COURT MASTER

(M.S. NEGI)
COURT MASTER

(SIGNED ORDER IS PLACED ON THE FILE)