

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.9827/2013

ASHOK (DEAD) THROUGH LRS.

Appellant(s)

VERSUS

ASHWATHAPPA (DEAD) THROUGH LRS.

Respondent(s)

O R D E R

In pursuance to our last order, the parties have made their respective assessments. It is the say of the appellants that the valuation of the total property is about Rs.24 lakhs while learned counsel for the respondents submits that according to the respondents, the valuation is about Rs.90 lakhs. In view thereof, we put to learned counsel for the respondents whether they were willing to pay to the appellants 1/4th of that amount in order to test the valuation of the total property. On that, learned counsel for the respondents again took instructions that in fact the respondents are willing to pay Rs.24 lakhs to the appellants, which is the valuation made by the appellants of the whole property as against 25 per cent share i.e. the amount they had originally paid.

We may note that this is in the circumstances where in terms of the impugned judgments of the High Court the finding is against the appellants and the direction which has been passed is to pay to the appellants a sum of Rs.1 lakh with future interest at 9 per cent per annum from the date of the

judgment. In view of the aforesaid, we have put to learned counsel for the appellants that the appellants may take the option as offered by the respondents for settlement or in the alternative can proceed with the hearing of the appeal and invite a judgment, in which eventuality, naturally the respondents will not be bound by this offer.

At this stage, learned counsel for the appellants took some time to obtain instructions and states that as per the valuation of the respondents, she is willing to pay Rs.68 lakh in full and final satisfaction of the claim of the respondents for the transfer of the property in the name of the appellants but that six months' time may be granted to make the payment with interest as may be determined by the Court.

In view of the aforesaid, learned counsel for the respondents states that her clients are willing to accept Rs.68 lakh in full and final settlement of the claim but the time period being sought is long and the time period may either be reduced or, as the appellants(s) offered, a suitable rate of interest should be fixed.

In view of the aforesaid and on further discussion, it is agreed that instead of getting into the issue of interest, the amount be fixed at Rs.70 lakhs to be paid within a period of six months from today i.e. on or before 31st January, 2022.

The result of the aforesaid is that the impugned order is set aside to that extent and a decree of specific performance

is passed in favour of the appellants and against the respondents for a total sale consideration of Rs.70 lakh for the area now remaining with the appellants of 900 square feet (an area of 300 square feet having already been acquired by the development authority). The amount of Rs.70 lakh will be deposited before the trial Court by the appellants on or before 31st of January, 2022 and on such deposit the respondents will execute the sale deed in favour of the appellants and will be permitted to withdraw the amount. If the respondents do not come forth to execute the sale deed, it is open to the appellants to get the sale deed executed and registered through the Court and the amount will be released to the respondents only on the sale deed being registered in favour of the appellants. Till the amount is deposited by the appellants it shall remain a charge on the property.

In the eventuality of any delay in deposit of the amount beyond 31st January, 2022, the amount will carry simple interest at the rate of 15 per cent per annum.

Ms. Shobha A. and Ms. Vasanth A., appellant Nos.1.5 and 1.4 for the appellants' side and Mr. Vijay Kumar and Mr. Babu, respondent Nos.1.2 and 1.6 have joined the virtual proceedings.

We appreciate the role of the learned counsel for the parties to bring this long pending dispute to an end and the constructive approach adopted by the parties.

The appeal stands disposed of.

The decree be drawn up accordingly and the parties are left to bear their own costs.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[HRISHIKESH ROY]

NEW DELHI;
AUGUST 05, 2021.

