

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 687-688 of 2013

ABDUL SUBAN SAB @ PYARE SAB (D)  
BY LRS.& ORS.

Appellant(s)

VERSUS

CHIDANANDA & ORS.

Respondent(s)

O R D E R

The appellants herein filed O.S. No.31/82 for permanent injunction. The respondents filed O.S.No.22/82 for declaration of title and permanent injunction. The Trial Court decreed the suit of the appellant and granted permanent injunction. O.S.No.22/82 filed by the respondent was dismissed. The common judgment in O.S.Nos.22/82 and 31/82 was affirmed by the First Appellate Court. The contention of the respondents that the suit schedule property was not identifiable was rejected by the Trial Court. The said finding was upheld by the First Appellate Court. The High Court framed a substantial question of law which is reproduced hereunder:

"1. Whether the lower courts ignored to appreciate the documents in proper perspective on behalf of the plaintiff in O.S.No.22/82 and also further committed an error with respect to the identity of the suit property?"

The High Court reversed the order pertaining to the identification of the property by upholding that the property purchased by the respondent is different from the property which is the suit schedule property in O.S.No.31/82. The substantial question of law framed is to the effect that the lower courts failed to appreciate certain facts while deciding the point pertaining to the identification of the property. There is no reference and discussion by the High Court about those documents which were ignored by the Courts below. The High Court reversed the findings of the First Appellant Court by re-appreciating the evidence. We are also informed by the learned counsel for the appellant that the counsel for the appellant was not present when the matter was heard by the High Court.

In view of the aforesaid, we set aside the judgment of the High Court and remand the matter back to the High Court for fresh consideration. We have not expressed any view on the merits of the matter and

all points are left open to be considered by the High Court.

As the suit was filed in the year 1982, we request the High Court to decide the appeals at the earliest.

The appeals are disposed of accordingly. Pending application(s), if any, stand disposed of.

.....J  
(L.NAGESWARA RAO)

.....J  
(HEMANT GUPTA)

NEW DELHI;  
06<sup>th</sup> August, 2019

ITEM NO.108

COURT NO.10

SECTION IV-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).687-688/2013

ABDUL SUBAN SAB @ PYARE SAB (D) BY LRS. &amp; ORS.

Appellant(s)

VERSUS

CHIDANANDA &amp; ORS.

Respondent(s)

Date : 06-08-2019 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO  
HON'BLE MR. JUSTICE HEMANT GUPTA

For Appellant(s)      Mr. Anupam Lal Das, Sr. Adv.  
                                 Mr. B. Vishwanath Bhandarkar, Adv.  
                                 Mr. Karunakar Mahalik, Adv.  
                                 Mr. Sarbendra Kumar Adv.  
                                 Mr. N.K. Naik, Adv.  
                                 Mr. V.N. Raghupathy, AOR

For Respondent(s)    Mr. N.D.B. Raju, Adv.  
                                 Mr. M. A. Chinnasamy, AOR  
                                 Mr. Bharathi Raju, Adv.

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

The appeals are disposed of in terms of the  
signed order. Pending application(s), if any, stand  
disposed of.

(B. Parvathi)  
Court Master

(Sunil Kumar Rajvanshi)  
Court Master

(Signed order is placed on the file)