

IN THE SUPREME COURT OF INDIA  
 CIVIL APPELLATE JURISDICTION  
 CIVIL APPEAL NO. 3940 OF 2007

HARYANA STATE INDUSTRIAL DEVELOPMENT CORPN.		APPELLANT(s)
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Versus

M/S. CORK MANUFACTURING CO.		RESPONDENT(s)
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O R D E R

The matter has come up for consideration before the 3-Judge Bench as in the appeal, the two Judges, who heard the matter, took a different view on the correctness of the judgment of the High Court. One of the members of the Bench (Tarun Chatterjee, J.) was of the view that the dismissal of second appeal by the High Court in limini did not suffer from any error as it raised no substantial question of law. Insofar as application under Order 41 Rule 27 of the Code of Civil Procedure, 1908 (CPC) filed by the appellant (hereinafter to be referred to as "defendant") for production of additional evidence before the High Court was concerned, he was of the view that inadvertence and lack of proper legal advice were no grounds to allow such application. Tarun Chatterjee, J. in his operative order said "Accordingly, the appeal requires to be dismissed and is dismissed as such. There will be no order as to costs."

2. The other member of the Bench (P.K. Balasubramanyan, J.) on consideration of the matter took a different view. He was of the opinion that vital aspects had been ignored by the trial court as well as the first appellate court and the findings recorded by these courts were given ignoring legal evidence available in the case and, therefore, the findings being perverse were not binding on the second appellate court under Section 100 CPC and compelled interference by the High Court.

3. With regard to the application made by the defendant under Order 41 Rule 27 CPC, he was of the view that the documents produced along with the application for additional evidence would have enabled the High Court to pronounce a judgment more satisfactory to its conscience constituting substantial cause withing the meaning of Order 41 Rule 27 of the Code for production of additional evidence. It was observed that the authenticity of the notice had not been questioned by filing an objection and the High Court was, therefore, in error in thinking that it was not a document which could be straightway accepted. He then concluded that the appeal deserved to be allowed and the judgments and decrees of the courts below were liable to be set-aside. He, thus, dismissed the suit filed by the respondent (hereinafter to be referred to as "plaintiff") with costs throughout.

4. Having concluded that, P.K. Balasubramanyan, J. noted that in the course of hearing, the defendant offered that the plot could be allotted afresh to the plaintiff, if the plaintiff was willing to pay the price @ Rs. 13000 per square meter (current rate). The plaintiff was not willing to pay that price. Learned counsel for the plaintiff had informed the Court that subsequent to the decreeing of the suit, the plaintiff had put up construction in the property. Learned Judge then observed that though on the date of the suit, there was no construction but taking note of the changed circumstances, it would be proper if an opportunity was given to the plaintiff to have the land allotted to it afresh on its paying price



Date: 27/03/2014 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA  
HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA  
HON'BLE MR. JUSTICE DIPAK MISRA

For Appellant(s) Mr. Amrendra Sharan, Sr. Adv.  
Mr. Ravindra Bana, Adv.

For Respondent(s) Mr. Gaurav Bhatia, Adv.  
Mr. Abhishek Chaudhary, Adv.  
Mr. Garvesh Kabra, Adv.  
Mr. Aman Mishra, Adv. for  
M/S. Bhatia & Co.

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

Civil Appeal is disposed of in terms of signed order. No  
costs. Pending application(s), if any, stands disposed of.

|(Pardeep Kumar)  
|AR-cum-PS

|(Renu Diwan)  
|Court Master

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[SIGNED ORDER IS PLACED ON THE FILE]