

SUPR EME COUR T OF I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 6295-6296 OF 2000

DAULAT RAM Appellant (s)

VERSUS

HET RAM & ORS Respondent(s)

Date: 14/07/2009 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DALVEER BHANDARI
HON'BLE DR. JUSTICE MUKUNDAKAM SHARMA

For Appellant(s)

Mr. J.S. Attri, Sr.Adv.
Mr. Atul Sharma, Adv.
Mr. Balraj Dewan,Adv.

For Respondent(s)

Mr. Rajesh Gupta, Adv.
Mr. Reepak Kansal, Adv.
Mr. Harpreet Singh, Adv.
for G.K. Bansal, Adv.

M/S. K.J. John & Co.,Adv. (NP)

UPON hearing counsel the Court made the following
ORDER

The appeals are disposed of in terms of the signed
order.

(Sukhbir Paul Kaur)
Court Master

(Neeru Bala Vij)
Court Master

(Signed Order is placed on the file)
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6295-6296 OF 2000

DAULAT RAM Appellant(s)

Versus

HET RAM & ORS. Respondent(s)

ORDER

These appeals are directed against the judgment of
the High Court of Himachal Pradesh, Shimla at Shimla in
Regular Second Appeal No.99 of 1993.

Learned Judge of the High Court while remitting the case to the first appellate Court directed that :-

"In my view, the interest of justice would require that the matter be relegated to the learned First Appellate Judge to consider the question of actual and physical possession asserted by either of the parties and for that purpose the appeals filed by the plaintiffs in C.A. Nos.118-S/13 of 1989 and 123-S/13 of 1989/1987 shall stand remitted to the first appellate Court for the limited purpose of considering properly and effectively the question relating to the possession of the parties and pass appropriate orders as the first appellate Court deem fit on such fresh consideration of the said issues. If the first appellate Court so desires, it is open to the said Court to take any further evidence in the matter in order to effectively decide the same. The relief claimed by way of injunction shall abide by the decision to be rendered by the first appellate Court."

...2/-

-2-

As far as the High Court's direction regarding actual and physical possession, it warrants no interference.

Mr. J.S.Attri, learned senior counsel appearing for the appellant submits that since the case has already been remitted to the first appellate Court, therefore, the first appellate Court may also be directed to consider the second substantial question of law formulated by the High Court which reads as under :-

"Whether the amendment of Himachal Pradesh Tenancy and Land Reforms Act, 1972, by Act No.15 of 1976, for the purpose of vestment of right of ownership in tenants by virtue of Section 104(3) cannot be read retrospectively and can only be read as prospectively."

In the facts and circumstances of this case, we are of the opinion that the prayer of the appellant is reasonable and consequently, the first appellate Court is also directed to determine the said substantial question of law formulated by the High Court.

Learned counsel for the parties further submit that for deciding this issue no evidence is required because it is a pure question of law. In this view of the matter, we direct that this issue should also be

...3/-

determined by the first appellate Court after hearing learned counsel for the parties without being influenced by any observation made by the High Court.

This case is pending for quite some time, therefore, we request the first appellate Court to decide the case as expeditiously as possible and in any event within six months from the date of communication of this order.

The appeals are accordingly, disposed of leaving the parties to bear their own costs.

.....J.
(DALVEER BHANDARI)

.....J.
(DR. MUKUNDAKAM SHARMA)

New Delhi,
July 14, 2009