

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8193 OF 2010

MUKHTIAR SINGH & ORS. .. APPELLANT(S)

VERSUS

GURDIAL KAUR (DEAD) THROUGH .. RESPONDENT(S)
LRS. & ORS.

WITH

CONTEMPT PETITION © NO. 415 OF 2012 IN C.A. NO.
8193 of 2010

CONTEMPT PETITION © NO. 565 OF 2014 IN C.A. NO.
8193 OF 2010

O R D E R

C.A. NO. 8193 OF 2010

1. The dispute is between brothers. Appellants are three brothers on the one hand and respondents are the legal heirs of the fourth brother. Though the case has a checkered history, it is not necessary for us to go into the factual

details as during the course of arguments, parties have settled the matter. We may record that learned counsel for the appellants has stated at the Bar that he has been given authority by the appellants to settle the matter. So is the statement of learned counsel for the respondents. Some of the respondents are also present in the Court, including one Mr. Karam Singh, who have given their consent to the settlement.

2. Suit land which comprises of 90 Kanals 17 Marlas and originally belonged to the father of the appellants Shri Kirpal Singh is in possession of the respondents-herein. Out of the aforesaid land, 66 Kanals 3 Marlas is in their ownership, which came to them under the family settlement dated 26.06.1947. This right of ownership to the aforesaid extent in favour of the respondents was upheld by the High Court in the earlier round of litigation and the said view of the High Court was affirmed by this Court as well. Though, the

respondents are owners to the extent of 66 Kanals and 3 Marlas, they are not in possession of 90 Kanals and 17 Marlas. The effect thereof would be that approximately 34 Kanals of land which is in possession of the respondents may belong to the appellants. Notwithstanding that, the settlement arrived at between the parties is to the effect that the entire land of 90 Kanals and 17 Marlas would be divided into two parts, i.e., 50 per cent of the aforesaid land measuring 45 Kanals and $8^{1/2}$ Marlas would be given by the respondents to the appellants. We make it clear that as per the settlement 45 Kanals and $8^{1/2}$ Marlas would be in the ownership of the respondents and the appellants would be owners of the remaining half share, i.e., 45 Kanals and $8^{1/2}$ Marlas. The Revenue Record shall be amended accordingly.

3. Learned counsel for the respondents states that during the pendency of the present appeal, the appellants had taken possession of the entire

land, which fact is disputed by learned counsel for the appellants. Be as it may, learned counsel on both sides agree that land in question needs to be partitioned and half and half possession be given to the respective parties. In order to carry out the actual partition it is further suggested by learned counsel on both sides that a Court Commissioner be appointed in this behalf. We, accordingly appoint Shri Sanjay Sandhir, Member of Haryana Judicial Services, who presently is the Principal Private Secretary to the Chief Justice of Punjab & Haryana High Court for this purpose. He will visit the site alongwith the parties and their representatives to effect the actual partition and handover 50 per cent of the land to each party. His fee, at present is fixed at Rs. 1,00,000/-, which shall be shared by both the parties equally.

4. The appeal is disposed of in above terms.

CONTEMPT PETITION © NO. 565 OF 2014 IN C.A. NO. 8193 OF 2010

In view of the aforesaid settlement entered into between the parties in the Civil Appeal, learned counsel for the respondents does not press the contempt petitions, which are disposed of accordingly.

.....J.
[A.K. SIKRI]

.....J.
[ROHINTON FALI NARIMAN]

NEW DELHI,
FEBRUARY 10 2016.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8619 OF 2010

AJAY DHAKA & ANR.

.. APPELLANT(S)

VERSUS

STATE OF UTTAR PRADESH (NOW
UTTARANCHAL) THROUGH
COLLECTOR, HARIDWAR

.. RESPONDENT(S)

O R D E R

1. Land of the appellants was acquired under the Land Acquisition Act, 1894 (for short, "the Act") and compensation was paid. The appellants sought Reference under Section 18 of the Act. The Reference Court re-fixed the compensation by enhancing it to some extent.

2. The appellants are not agitating acquisition as well as fixation of compensation qua land is concerned. They only dispute the

amount of compensation awarded in respect of standing trees on the land. According to the appellants compensation should have been paid for 10,500 trees.

3. The Reference Court, however, found that there were 7216 trees and paid the compensation accordingly.

4. The matter was taken in appeal to the High Court. The High Court by a detailed judgment has granted compensation for 8,600 trees in the following manner:

"7346 trees of 0 to 10 diameter, 151 trees of 10 to 20 diameter and 2 trees of 20 to 30 diameter and one tree of 50 to 60 diameter."

5. This judgment of the High Court is in appeal before us. After going through the judgment of the High Court, we find that the High Court examined the record and found the existence

of 8,600 trees on the acquired land. This was as per the report paper No. 48-C filed on behalf of the State. This is a mere finding of fact recorded by the High Court and no question of law arises for consideration.

5. The appeal is, therefore, devoid of any merit and is accordingly dismissed.

.....J.
[A.K. SIKRI]

.....J.
[ROHINTON FALI NARIMAN]

NEW DELHI,
FEBRUARY 10 2016.

ITEM NO.102

COURT NO.12

SECTION IV

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. 8193/2010

MUKHTIAR SINGH & ORS.

Appellant(s)

VERSUS

GURDIAL KAUR (DEAD) THROUGH LRS. & ORS.

Respondent(s)

(With appln. (s) for exemption from filing O.T. and office report)

WITH

CONMT.PET.(C) No. 415/2012 In C.A. No. 8193/2010

CONMT.PET.(C) No. 565/2014 In C.A. No. 8193/2010

(With Office Report)

Date : 10/02/2016 These appeals were called on
for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Appellant(s) Mr. Ajay G. Majithia, Adv.
Mr. Shekhar Kumar, Adv.

For Petitioner(s)/ Dr. Sarbjit Sharma, Adv.
Respondent(s) Mr. S.K. Verma, Adv.

For Respondent(s)

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

The appeal and the contempt petitions are
disposed of in terms of the signed order.

[Charanjeet Kaur]
A.R.-cum-P.S.

[Tapan Kr. Chakraborty]
Court Master

[Signed order is placed on the file]