

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. 5471 OF 1999

Divisional Forest Officer, Dhanbad  
Appellant (s)

Appellant

Versus

Jogendra K. Mahto & Ors.  
Respondent (s)

Respondent

With

Civil Appeal Nos. 8051/2001 (with appl(s) for permission to place  
additional Documents on record)  
1463/2002 (With prayer for interim relief) and 359/2003 (With prayer for  
interim relief and office report)

Date: 05/04/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN  
HON'BLE MR. JUSTICE A.K. MATHUR

For Appellant(s) Mr. M.L. Varma, Sr. Adv.  
Mr. Arup Banerjee, Adv.  
Mr. Satya Mitra, Adv.  
Mr. Ashok Mathur, Adv.

For Respondent(s) Mr. Jaspal Singh, Sr. Adv.  
Mr. S.B. Upadhyay, Adv.  
Mr. R.R. Dubey, Adv.  
Mr. Santosh Misra, Adv.  
Mr. Shiv Mangal Sharma, Adv.

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

The civil appeals are dismissed in terms of the signed order. No costs.

(J.S. Rawat)  
Sudhakar Arora)  
Court Master  
Court Master

(Phoolan W

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5471 OF 1999

Divisional Forest Officer, Dhanbad

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Versus

Jogendra K. Mahto & Ors.

Respondent (s)

With

Civil Appeal Nos. 8051/2001, 1463/2002 and 359/2003

O R D E R

Plaintiff-respondent filed a suit for declaration of his right, title and possession over 2.55 acres of land in plot no. 7562 Village Chas District Bokaro in the State of Bihar (as it then was). After the State Reorganisation, State of Jharkhand has been substituted in place of the State of Bihar. According to the plaintiff-respondent, the aforesaid land was never declared to be "a forest land" by the State of Bihar which was the predecessor-in-interest of the State of Jharkhand.

The Courts below after appreciating the evidence led by the parties, came to the conclusion that the State had failed to establish that the area of 2.55 acres of land claimed by the appellants in plot no. 7562 was ever declared to be a forest or that it was acquired by the Forest Department.

Aggrieved against the findings recorded by the courts below, the

appellants filed second appeal No.1/98 in the High Court of Judicature at Patna, Ranchi Bench (as it then was). As per Section 100(3) of the Code of Civil Procedure (CPC) the appellant was required to frame a question of law said to be arising in the appeal. No such question of law was framed/claimed by the appellant in the grounds of second appeal filed in the High Court. The High Court dismissed the appeal holding that the findings recorded by the courts below were findings of fact which did not call for interference in exercise of its jurisdiction under Section 100 CPC.

At the request of the learned Additional Solicitor General who appeared for the appellant, we had adjourned this appeal to enable the appellant to file additional documents to show that the land in question in plot No. 7562 had been notified to be either "a forest land" or was ever declared to be "a private forest". Appellant has filed some documents out of which some were never produced in evidence in the trial court. We have declined to look at the documents which did not form part of the trial court record. After examining the documents which were part of the record, we are satisfied that the land in question was never declared to be "a forest land" or "a private forest."

In our view, the High Court was right in holding that the findings recorded by the courts below were findings of fact which did not call for interference in exercise of its jurisdiction under Section 100 CPC.

The civil appeal is dismissed with no order as to costs.

Civil Appeal Nos. 8051/2001, 1463/2002 and 359/2003

By the impugned order the High Court had dismissed the second appeal by observing that the findings recorded by the courts below were findings of fact which do not call for interference in exercise of its jurisdiction under Section 100 CPC. We find from the record that the appellant did not even frame/state the question of law said to be arising from the findings recorded by the court of fact in the grounds of second appeal.

In our view, the High Court was right in holding that the findings recorded by the courts below were findings of fact which did not call for interference in exercise of its jurisdiction under Section 100 CPC.

The civil appeals are dismissed with no order as to costs.

.J.

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(ASHOK BHAN)

New Delhi;  
..J.  
April 05, 2005.

.....  
(A.K. MATHUR)