

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9586 OF 2011

Popatji Babaji Thakore & Ors. .. Appellant(s)

Versus

Manubhai Chimanlal Shah & Ors. .. Respondent(s)

WITH

CIVIL APPEAL NO. 9587 of 2011

Manubhai Khodidas Patel .. Appellant(s)

Versus

Manubhai Chimanlal Shah & Ors. .. Respondent(s)

O R D E R

CIVIL APPEAL NO. 9586 OF 2011

1. Having heard the learned counsels for the parties at some length, we are of the view that no substantial question of law that would call for an authoritative pronouncement, in exercise of our jurisdiction under Article 136 of the

Constitution, arises in the present appeal.

2. Though an attempt has been made by learned senior counsel appearing for the appellants to contend that specific performance of the agreement ordered by the High Court ought not to have been so granted as the agreement is contrary to the provisions of Section 43 of the Bombay Tenancy and Agricultural Lands Act, 1948, we find that the said issue was foreclosed by the High Court on the ground that the adverse findings on the issue recorded by the Trial Court were not agitated by the present appellants before the first appellate Court, and, therefore, the said issue had attained finality in law. We can find no error in the above view of the High Court.

3. The other questions sought to be raised really pertain to the exercise of jurisdiction under Section 20 of the Specific Relief Act,

1963. The facts in which discretion was exercised to grant the decree of specific performance satisfies us that the said questions are not substantial questions of law, requiring an answer by this Court.

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

CIVIL APPEAL NO. 9587 OF 2011

1. We have heard Shri Huzefa Ahmadi, learned senior counsel appearing for the appellant and Shri R.P. Bhatt, learned senior counsel appearing for the respondents.

2. Though a number of points have been sought to be raised on behalf of the appellant, we are not inclined to consider the same inasmuch as the appellant was not heard by the High Court and he was not a party to the Second Appeal.

3. Learned senior counsel for the appellant, in all fairness, has submitted that the appellant had initially applied for impleadment during the pendency of the appeal, which was refused by the High Court and the said refusal has been affirmed by this Court by dismissing the special leave petition filed by the appellant. Notwithstanding the above, learned counsel has urged, without hearing the appellant, orders adverse to the appellant have been passed. It is, therefore, urged that the correctness of the same should be determined by us in the present appeal.

4. We are not inclined to do so for the reason that the grievance of the appellant can be taken care of by granting him leave to approach the High Court. The High Court will hear the appellant on all points as may be open to him in law to agitate and, thereafter pass such further orders in modification or

supersession of its earlier orders qua the appellant, if considered so appropriate.

5. With the aforesaid observations, this appeal is disposed of with no order as to costs.

.....J.
[RANJAN GOGOI]

.....J.
[S.A. BOBDE]

NEW DELHI,
SEPTEMBER 11, 2014.

ITEM NO.107

COURT NO.9

SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 9586/2011

POPATJI BABAJI THAKORE & ORS.

Appellant(s)

VERSUS

MANUBHAI CHIMANLAL SHAH & ORS.
(With appln. for impleadment)

Respondent(s)

WITH

C.A. No. 9587/2011
(With Office Report)

Date : 11/09/2014 These appeals were called on
for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE S.A. BOBDE

For Appellant(s) Mr. Yashak Adhyaru, Sr. Adv.
In CA 9586/11 Ms. Laxmi Abhichandani, Adv.
Ms. K.V. Bharathi Upadhyaya, Adv.

For Appellant(s)
In CA 9587/11 & Mr. Huzefa Ahmadi, Sr. Adv.
rr. in CA 9586/11 Ms. Charu Mathur, Adv.

For Respondent(s) Mr. R.P. Bhatt, Sr. Adv.
Mr. Aniruddha P. Mayee, Adv.

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

C.A. No. 9586 of 2011

The civil appeal is dismissed with no order
as to costs in terms of the signed order.

C.A. No. 9587 of 2011

The civil appeal is disposed of with no
order as to costs in terms of the signed order.

[Charanjeet Kaur]
Court Master

[Asha Soni]
Court Master

[Signed order is placed on the file]