

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5000 OF 2024
(Arising out of SLP (C) No. 20544 of 2010)

BIRBAL(DEAD) THROUGH LRS.

APPELLANT(S)

VERSUS

UTTAM CHAND (DEAD) THROUGH LRS. & ORS.

RESPONDENT(S)

O R D E R

Leave granted.

This case arises out of pure civil proceedings initiated by the respondent Nos. 1 to 20 herein who were plaintiffs in the suit, filed for possession in which respondent Nos. 21 to 26 herein were the defendants. The suit was decreed in favour of the plaintiffs vide order dated 03.12.1985. Against the said order, respondent Nos.21-26 preferred an appeal before the Additional District Judge, Patiala (Lower Appellate Court) whereby vide order dated 23.12.1987, the appeal was partly allowed by dividing the subject property into equal shares i.e. 40 Kanals to each family.

Being aggrieved by the order dated 23.12.1987, respondent Nos. 1 to 20 herein filed Second Appeal No.673 of 1988 before the High Court of Punjab and Haryana. During the pendency of the second appeal, the present appellant(s) before this Court was impleaded as respondent before the High Court. The impleadment of the present appellant was on the basis of the fact that during the pendency of the Second Appeal (during a short period when the appeal was dismissed for default during 1991 to 1996), a part of

the suit property was purchased from the respondent Nos. 1 to 20/plaintiffs and from respondent Nos. 21 to 26/defendants through five different sale deeds. The Second Appeal was ultimately allowed by the High Court vide its order dated 23.03.2010 whereby the Division Bench set aside the order dated 23.12.1987 passed by the lower appellate court and upheld the order dated 03.12.1985 passed by the trial court and decreed the suit in favour of the plaintiffs thereby they became the full owner of the subject property.

During the course of the arguments, both the parties are present, although the respondent Nos. 1 to 20/plaintiffs are being represented by the learned counsel. In spite of service, original defendants/respondent nos. 21,22 & 25 have not put their appearance. It is stated in the Court that they have not challenged the order of the Second Appellate Court.

Since it is an admitted fact that the present appellant(s) have purchased a part of the suit property from the plaintiffs as well as the defendants. It is also an admitted fact that for the last more than twenty years, the appellant(s) have been in possession of the subject property.

Presently, there is no challenge to the order of the High Court dated 23.03.2010 by the original plaintiffs as well as the

original defendants. The present appellant(s) who were impleaded as a party-respondent in the Second Appeal, are the subsequent purchasers of the part subject property.

All objections which are raised before this Court, can be raised in the Execution Proceedings or in a separate civil proceeding in accordance with law, if he decides to file one.

The present appeal is disposed of on the aforesaid terms.

.....J.
(A.S. BOPANNA)

.....J.
(SUDHANSHU DHULIA)

NEW DELHI;
9th April, 2024

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

Petition for Special Leave to Appeal (C) No 20544/2010
(Arising out of impugned final judgment and order dated 23-03-2010
in RSA No. 673/1988 passed by the High Court of Punjab & Haryana at
Chandigarh)

BIRBAL(DEAD) THR. LRS.

Petitioner(s)

VERSUS

UTTAM CHAND (DEAD) THROUGH LRS. & ORS.
(IA No. 185593/2019 - VACATING STAY)

Respondent(s)

Date : 09-04-2024 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.S. BOPANNA
HON'BLE MR. JUSTICE SUDHANSHU DHULIAFor Petitioner(s) Mr. Birendra Kumar Mishra, AOR
Ms. Poonam Atey, Adv.
Mr. Sirajuddin, Adv.For Respondent(s) Mr. R.K. Kapoor, Adv.
Mr. Rajat Kapoor, Adv.
Ms. Shweta Kapoor, Adv.
Dr. Raji Kumar R., Adv.
Krishna Joshi, Adv.
Ms. Kheyali Singh, AORMr. Mithilesh Kumar Singh, AOR
Mrs. Manju Singh, Adv.
Mr. Ashutosh Kumar Singh, Adv.
Mr. Tarun Verma, Adv.
Mr. Aditya Durgvanshi, Adv.
Mr. Saumitra Singh, Adv.UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of in terms of signed order.

Pending application(s) shall stand disposed of.

(RAJNI MUKHI)
COURT MASTER (SH)

(Signed order is placed on the file)

(RENU BALA GAMBHIR)
COURT MASTER (NSH)