

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

Petition(s) for Special Leave to Appeal (Civil) No(s).27351/2009

(From the judgement and order dated 04/09/2009 in RSA No. 85/2005 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

RAMESHWAR & ORS. Petitioner(s)

VERSUS

ABHEY SINGH & ORS. Respondent(s)

(With appln(s) for substitution,exemption from filing O.T.,c/delay in filing substitution appln. and prayer for interim relief and office report)

Date: 07/02/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE A.K. PATNAIK

For Petitioner(s) Mr. Gaurav Jain,Adv.
Ms. Abha Jain,Adv.

For Respondent(s) Mr. Arbind Choudhary,Adv.
Mr. Atishi Dipankar,Adv.

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

Application for substitution is allowed.
Delay condoned.

Leave granted.

In terms of the signed order, the appeal is allowed, the impugned judgment dated 4.9.2009 of the High Court is set aside and R.S.A. No.85/2005 is remanded to the High Court for disposal in accordance with law after notice to all respondents and after framing appropriate question of law.

1

(O.P. Sharma) (M.S. Negi)
Court Master Court Master
(Signed order is placed on the file)

2

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1460/2011
(Arising out of SLP(C)No.27351/2009)

RAMESHWAR & ORS. ...Appellants

VERSUS

O R D E R

Leave granted. Heard.

2. The appellants were the plaintiffs in a suit for declaration that a lease deed executed by defendants 2 to 9 in the suit in favour of the first defendant (first respondent herein) was void and for consequential permanent injunction. The trial court dismissed the suit and the first appellate court allowed the appeal filed by the plaintiffs holding that the lease was invalid. The said judgment was challenged by the first defendant (first respondent herein) by filing a second appeal before the High Court. The said second appeal was allowed by the Punjab & Haryana High Court by the impugned order dated 4.9.2009. The said order is under challenge in this appeal by special leave.

3. We find that the order of the High Court suffers from two infirmities. Firstly, the plaintiffs who were the affected parties were not served and the High Court proceeded on the basis that service on the first plaintiff (who was the first respondent in the second appeal) was sufficiently served on plaintiffs 2 to 9. This was wholly impermissible. Secondly, no question of law has been framed. The High Court by a virtual, non-speaking judgment, has reversed the judgment of the first appellate court. Hence, the order of the High Court cannot be sustained.

4. The appeal is allowed, the impugned judgment dated 4.9.2009 of the High Court is set aside and R.S.A. No.85/2005 is remanded to the High Court for disposal in accordance with law after notice to all respondents and

after framing appropriate question of law.

.....J.
[R.V. RAVEENDRAN]

NEW DELHI
FEBRUARY 7, 2011

.....J.
[A.K. PATNAIK]