

B/  
ITEM NO.50

COURT NO.4

SECTION XIV

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).12868/2011

(From the judgement and order dated 20/05/2010 in RSA No.475/2000 of The HIGH COURT OF H.P AT SHIMLA)

RAM PRAKASH & ORS.

Petitioner(s)

VERSUS

STATE OF H.P.

Respondent(s)

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

Date: 30/11/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s) Ms. Minakshi Vij,Adv.

For Respondent(s) Mr. Naresh K. Sharma,Adv.

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

Having failed to convince the learned Single Judge of the High Court to reverse the concurrent findings recorded by the trial Court and the lower appellate Court on the issues of their ownership of the suit land and their entitlement to get permanent injunction, the petitioners have filed this petition.

In the suit filed by them, the petitioners claimed that they are in un-interrupted possession for more than 30 years and the officers of the State Government had no right to forcibly evict them. They further pleaded that the suit land cannot be treated to have vested in the State in term of the H.P. Village Common Lands (Vesting and Utilization) Act, 1974 (for short, 'the 1974 Act').

In the written statement filed on behalf of the respondent, it was pleaded that by virtue of the provisions contained in the 1974 Act, the suit land, which was earlier recorded as Shamlat Deh, automatically vested in the State; that possession of the petitioners was not lawful and that they are not entitled to be declared as owners of the suit land.

On the pleadings of the parties, the trial Court framed the following issues:

"1. Whether the plaintiffs are owners in possession of the suit land, as alleged?

2. Whether the plaintiffs are entitled for the relief of permanent injunction, as alleged?

3. Whether the suit is barred by principles of res judicata?

4. Whether the court has no jurisdiction?

5. Whether the plaintiffs have no cause of action?

6. Whether the suit is not properly valued for the purpose of court fee and jurisdiction, if so what is the correct valuation?

7. Relief."

After analyzing the evidence produced by the parties, the trial Court decided issues no.1, 2, 4 and 6 in negative and issues no.3 and 5 in affirmative and, accordingly, dismissed the suit.

The lower appellate Court re-appreciated the evidence brought on record and concurred with the trial Court that the petitioners cannot be declared as owners of the suit land.

In the second appeal, the petitioners raised the following questions of law:

"1. Whether the impugned judgment and decree is the result of non-consideration of the provisions of Section 3(5) of the HP. Village Common Lands (Vesting and Utilization) Act and the rules framed thereunder.

2. Whether the impugned judgment and decree is the result of non-consideration of the judgment given by this Hon'ble Court in the present case which was produced on record as Ext. D3/A in CWP No. 271 of 1974.

3. Whether the learned lower appellate court being last Court of fact is right in not discussing the entire oral as well as documentary evidence before recording the findings.

4. Whether the impugned judgment and decree is the result of complete misreading, misinterpretation as well as misappreciation of Exts. P2, D19 to D23.

5. Whether the courts below are right in recording the findings qua adverse possession without discussing the relevant evidence."

The learned Single Judge adverted to the provisions of the 1974 Act and held that by virtue of the provisions contained therein, the suit land vested in the State and petitioners cannot be declared as owners thereof.

We have heard learned counsel for the petitioners and perused the record. In our view, the concurrent findings recorded by the trial Court and the lower appellant Court, which have been approved by the learned Single Judge of the High Court are based on correct analysis of the pleadings of the parties and evidence produced by them and the learned Single Judge rightly held that the petitioners have failed to prove their ownership over the suit land, which vested in the State.

The plea of adverse possession raised by the petitioners

was also rightly negated by the learned Single Judge and we do not find any merit in the petitioners challenge to the impugned judgment.

The special leave petition is accordingly dismissed.

| (Parveen Kr.Chawla)  
| Court Master  
|

| | (Phoolan Wati Arora)  
| | Court Master  
| |

|  
|  
|