

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 786 OF 2008

HARNEK SINGH(DEAD) THR.LRS. & ORS. Appellant(s)

VERSUS

HUKAM CHAND (DEAD) Respondent(s)

WITH

CIVIL APPEAL NO. 1206 OF 2008

J U D G M E N T

KURIAN, J.

1. The application(s) for intervention is/are rejected.

2. Delay condoned. The application(s) for substitution is/are allowed.

3. The appellants are the legal representatives of deceased Hari Singh, who was the defendant in Civil Suit No. 32 of 1983 on the file of the Additional Senior Civil Judge, Ludhiana. It was a suit for specific performance. The suit was decreed. It was reversed at the first appellate stage. The High Court, in second appeal, restored the Judgment of the trial court and thus, the appellants are before this Court.

4. The suit for specific performance was filed by the plaintiffs in respect of a part of a large chunk of land extending to 71 and odd Kanals. According to the plaintiffs, the deceased defendant had already executed three Sale Deeds. Only when he declined to execute the Sale Deed in respect of the remaining seven and odd Kanals, the suit happened to be filed.

5. The learned counsel for the appellants pointed out that the coparceners had already filed a suit for cancellation of the three Sale Deeds already executed by Hari Singh and that suit, being CS No. 372 of 1983 is still pending before the Civil Judge, Ludhiana. The suit was filed based mainly on the contention that the deceased Hari Singh was not in a fit state of mind so as to execute the Sale Deed since he was addicted to liquor and drugs. He was the Karta of a Joint Hindu Family and that the sale was not for the benefit of the family.

6. In the above factual matrix, we are of the view that the pending suit filed by the coparceners needs to be tried on its own merits since the outcome of the land in dispute covered by the suit may have certainly some bearing on the civil suit for specific performance leading to the Judgment in the Second

Appeal, which is impugned in the civil appeals.

7. In the above circumstances, these appeals are disposed of as follows :-

(1) The Civil Judge, Ludhiana is directed to try and dispute of CS No. 372 of 1983 on its own merits expeditiously.

(2) We make it clear that the trial court shall not frame an issue on the mental state of mind of late Hari Singh since on that issue, there is a concurrent finding that Hari Singh was in a fit state of mind, as per the stand taken by himself.

(3) Therefore, the suit shall be tried only on the following issues :-

i) Whether the suit scheduled property in the hands of Hari Singh was an ancestral property.

ii) Whether the legal representatives are the coparceners.

iii) Whether the alleged sale of ancestral property by Hari Singh, which is the subject matter of the suit, was for the welfare of the Joint Hindu Family.

iv) Whether Hari Singh, as a Karta of the family, was competent to dispose of the suit scheduled property.

8. We record the submission made by the learned counsel on both sides that the outcome of RSA No. 447 of 1987 will depend on the decree in CS No. 372 of 1983, referred to above. They are, accordingly, free to approach the High Court, if required, after the disposal of the suit.

.....J.
[KURIAN JOSEPH]

.....J.
[A.M. KHANWILKAR]

New Delhi;
October 25, 2018.