

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 287-288/2011

SANT PRASAD

APPELLANT (S)

VERSUS

KAUSLA NAND SINHA & ORS.

RESPONDENT (S)

J U D G M E N T

KURIAN, J.

The only issue raised in these appeals is whether Section 80 C.P.C. notice was required for instituting the suit. The High Court has stated, in principle, that for instituting a suit notice under Section 80 C.P.C. is required. But unfortunately the High Court omitted to take note of the fact that the respondent/State was permitted to be impleaded as party and there was no objection taken by the State at that time.

2. In that factual background, we are of the view that the stand taken by the High Court is not tenable, though, in principle, we have no quarrel with the general proposition that for instituting a suit notice under Section 80 C.P.C. is required.

3. There is no appearance on behalf of the appellants. We do not think that any fruitful purpose will be served by retaining this case before this Court. We do not also intend to remit it to the High Court, since it will be another round of litigation.

4. However, in the interest of justice, we grant the liberty to the appellant or anybody claiming through the appellant to file an application before the High Court to consider their case on merits. In case such an application is filed on behalf of the appellant,

the same may not be dismissed on the ground of delay and the High Court may consider the matter on merits.

5. With the above observations and directions, the appeals are disposed of.

6. Pending applications, if any, shall stand disposed of.

7. There shall be no orders as to costs.

.....J.
[KURIAN JOSEPH]

.....J.
[R. BANUMATHI]

NEW DELHI;
SEPTEMBER 01, 2017.