

Manminder Singh vs Tajendra Singh on 24 January, 2020

Bench: R. Banumathi, A.S. Bopanna

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NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 627 OF 2020
(Arising out of SLP (C) No.29453 of 2019)

MANMINDER SINGH & ORS.

Appellant(s)

VERSUS

TAJENDRA SINGH & ORS.

Respondent(s)

O R D E R

R. BANUMATHI, J.:

Leave granted.

(2) This appeal arises out of judgment and order 07.08.2019 passed by the High Court of Judicature at Allahabad in Second Appeal No.1147 of 1998 in and by which the High Court has affirmed order dated 28.07.1998 of the First Appellate Court setting aside the auction sale dated 20.05.1986 in favour of the appellants-defendant.

(3) Being aggrieved by the judgment and order of the High Court, the appellant-Manminder Singh and others have preferred this appeal.

(4) The brief facts which led to the filing of the appeal is that the respondents-plaintiffs took a loan of Rs.48,000/- for the purchase of a tractor and did not adhere to the repayment schedule and became a defaulter for the amount payable by the respondents. Accordingly, auction was held by the State Bank of India on 20.05.1986 in which the appellants-defendants were the successful bidders. The auction sale in favour of the appellants-defendants was confirmed and the sale certificate was issued in their favour on 23.08.1986. Even at the same time the respondents raised objection before the Sub-Divisional Magistrate under Rule 285-I of Rules framed under Uttar Pradesh Zamindari Abolition and Land Reforms Act contending that the auction was not conducted in accordance with law. However, the objection filed by the respondents was came to be rejected on 26.08.1986.

(5) The respondents filed Civil Suit No.257/1989 before the Trial Court challenging the auction sale in favour of the appellants-defendant. By the Judgment dated 16.03.1998, the Trial Court dismissed the said suit filed by the respondents by holding that the auction sale was not in accordance with law under Section 286 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act.

(6) In appeal, the First Appellate Court vide Judgment dated 28.07.1998 allowed the appeal filed by the respondents and set aside the judgment of the Trial Court by holding that the market value of the suit land was higher; whereas the suit land was sold for a lesser price i.e. Rs.88,500/-. The First Appellate Court also held that the auction was not carried out in accordance with Section 286 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act and also that notice was issued to the respondents prior to the conducting of the auction. (7) In appeal preferred by the appellants-defendants, the second appeal came to be dismissed affirming the judgment of the First Appellate Court. Being aggrieved, the appellants- defendants have filed this appeal.

(8) We have heard Mr. Sanjay R. Hegde, learned senior counsel appearing for the appellants-defendants and Mr. V.K. Shukla, learned senior counsel appearing for the respondents and also perused the impugned judgment and the materials on record. (9) In view of the concurrent findings recorded by the First Appellate court and by the High Court, by Order dated 17.12.2019 we have held that this Court is not inclined to interfere with the impugned judgment passed by the High Court in and by which the High Court has affirmed Judgment of the First Appellate Court setting aside the auction sale dated 20.05.1986 in favour of the appellants-defendant. However, by Order dated 17.12.2019, we have observed, “However, since the petitioner has paid the amount due to the bank by which the outstanding of private respondents is liquidated, equity requires that the private respondents are to pay the money to the petitioners along with reasonable interest”. (10) By Order dated 07.01.2020 this Court has observed that “the petitioners in our view can be compensated by awarding lumpsum amount of Rs.10,00,000/- (Rupees ten lakhs) in addition to Rs.1,01,111.25 which is the actual amount paid by the petitioners and the total amount payable by the respondents to the petitioner is rounded of Rs.11,02,000/- (Rupees eleven lakhs two thousand)”.

(11) Today when the matter was taken up for hearing, fifth appellant-Jalwant Singh and some of the respondents were present in the Court in-person. In compliance of Order dated 07.01.2020, the respondents have brought six Pay Orders of an equal amount of Rs.1,83,670/- individually payable to all the six appellants (total sum of Rs.11,02,000/-) and the same have been received by fifth appellant-Jalwant Singh who is representing all the other appellants. The receipt of the said pay orders is recorded.

(12) Considering the interest of both the parties, it is directed to the appellants to hand over peaceful possession of the land to the respondents within a period of two weeks from today. At that time, the appellants shall also hand over the original sale certificate dated 23.08.1986 to the respondents for which respondents shall issue a proper acknowledgement. It is also directed that the appellants shall render all cooperation for effecting the mutation in favour of the respondents, if required.

(13) The appeal is accordingly disposed of.

.....J. (R. BANUMATHI)J. (A.S. BOPANNA) NEW DELHI, JANUARY
24, 2020.

ITEM NO.6

COURT NO.5

SECTION XI

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 (C) No(s). 29453/2019

(Arising out of impugned final judgment and order dated 07-08-2019 in SA No. 1147/1998 passed by the High Court Of Judicature At Allahabad) MANMINDER SINGH & ORS. Petitioner(s) VERSUS TAJENDRA SINGH & ORS. Respondent(s) (FOR ADMISSION and Interim Relief and IA No.191651/2019-EXEMPTION FROM FILING O.T. and IA No.191652/2019-PERM.TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEX.) Date : 24-01-2020 This petition was called on for hearing today. CORAM :

HON'BLE MRS. JUSTICE R. BANUMATHI HON'BLE MR. JUSTICE A.S. BOPANNA
For Petitioner(s) Mr. Sanjay R. Hegde,Sr.Adv.

Mr. Yasharth Kant,Adv.

Mr. Mahesh Srivastava,Adv.

Mr. Abhishek Kumar Singh, AOR For Respondent(s) Mr. V.K. Shukla,Sr.Adv.

Ms. Parul Shukla, AOR UPON hearing the counsel the Court made the following O R
D E R Leave granted.

In terms of the signed order, the appeal is disposed of. Pending application, if any,
shall also stand disposed of.

(MAHABIR SINGH)
COURT MASTER

(BEENA JOLLY)
BRANCH OFFICER

(Signed order is placed on the file)