

Ramji Bhagala vs Krishnarao Karirao Bagra And Anr. on 11 August, 1980

Equivalent citations: AIR1982SC1223, (1982)1SCC433, AIR 1982 SUPREME COURT 1223, 1982 (1) SCC 433, (1982) 2 RENTLR 661, (1982) LS 43, (1982) MAH LJ 835, (1982) MPLJ 710, (1982) 2 SCJ 166

Bench: A.P. Sen, P.N. Bhagwati

ORDER

1. We find from the judgment dated 5th October, 1979 given by S.K. Desai, J. that he has admitted the appeal in so far as prayer a (i), a (ii) and (a) are concerned and rejected the appeal so far as prayer (b) and the enquiry for mesne profits are concerned. The learned Judge seems to have proceeded on the assumption that there has been a recent amendment in the CPC under which he could admit the appeal as to a part and reject it as to the other. We do not find any such amendment in the Code nor has any such amendment been brought to our notice by the learned Counsel appearing on behalf of the parties. Our attention is drawn by Mr. Bhandare, learned advocate appearing on behalf of the respondents, to the fact that there was a proposal to introduce Clause 12A in Order 41 providing for admission of appeal as to a part by that clause does not seem to have found its way into the statute. We would, therefore, set aside the order passed by the Division Bench affirming the order of Mr. Justice S.K. Desai as also the order of Mr. Justice S.K. Desai and remand the appeal to the High Court so that the High Court may consider whether the appeal should be admitted wholly or rejected wholly. There will be no order as to costs of the present appeal.