

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7717 2013
(@ SPECIAL LEAVE PETITION (C) NO. 12513 OF 2011)

DAROPTI & ORS.

..PETITIONER(S)

VERSUS

HARPHOOL SINGH (D) THROUGH
LRS. & ORS.

..RESPONDENT(S)

O R D E R

1. Leave granted.
2. This appeal is directed against the judgment and order passed by the High Court in Regular First Appeal No. 405 of 2001, dated 22.02.2011. By the impugned judgment and order, the High Court has allowed the appeal and set aside the order passed by the Trial Court.
3. The Petitioners/ Plaintiffs are before us in this appeal. They had filed a Suit for Partition before the Trial Court against the Respondents/ Defendants. The Trial Court had decreed the Suit in favour of the Petitioners/ Plaintiffs. Aggrieved by the said decree passed by the Trial Court, the Respondents/ Defendants preferred an appeal before the High Court. The High Court without giving opportunity of hearing to either of the parties has allowed the appeal in favour of the Respondents/ Defendants and thereby reversed the judgment and order passed by the Trial Court.
4. In our view, since the High Court without giving opportunity of hearing to either of the parties has reversed the judgment and order passed by the Trial Court, an opportunity of

hearing ought to have been granted to the learned counsel appearing for the Petitioners/ Plaintiffs to present their case. Since that has not been done, in our opinion, the judgment and order passed by the High Court cannot be sustained and the same requires to be set aside.

5. In the result, we allow this appeal and set aside the judgment and order passed by the High Court and remand the matter back to the High Court for fresh disposal in accordance with law, after affording an opportunity of hearing to both the parties.

6. All the contentions of both the parties are kept open.

7. We clarify that we have not expressed any opinion on the merits or demerits of the case.

8. Since the matter is pending for a long time, we request the High Court to dispose of the matter as expeditiously as possible.

9. The Civil Appeal is disposed of accordingly.

Ordered accordingly

.....J.
(H.L. DATTA)

.....J.
(M.Y. EQBAL)

NEW DELHI;
SEPTEMBER 02, 2013