

CASE NO.:
Appeal (civil) 3867 of 2001

PETITIONER:
RAJENDER SINGH

RESPONDENT:
VIJAY PAL @ JAI PAL & ORS.

DATE OF JUDGMENT: 19/02/2008

BENCH:
TARUN CHATTERJEE & HARJIT SINGH BEDI

JUDGMENT:
JUDGMENT

O R D E R
NON-REPORTABLE

1. This appeal is directed against the judgment and order dated 5th of February, 2001 passed by a learned judge of the High Court of Delhi at New Delhi in RSA No.112 of 1996 whereby the High Court had allowed a second appeal filed by the respondent No.1 and set aside the judgments and decrees of dismissal dated 29th of January, 1996 and 20th of July, 1996 passed by the Civil Judge, Delhi and the Senior Civil Judge, Delhi, being the first appellate court, respectively.

2. The plaintiff/respondent no. 1 had instituted the suit before the Civil Judge, Delhi for declaration and injunction in respect of the suit property and for other incidental reliefs. In the said suit, a preliminary issue was framed to the extent that in view of Section 185 of the Delhi Land Reforms Act, 1954 (in short 'the Act'), the jurisdiction of the Civil Court to entertain the suit was barred. Both the courts below held that the civil court had no jurisdiction to entertain the suit in view of the bar imposed under Section 185 of the Act. The High Court, in second appeal against the judgments of the courts below, held that in view of the nature of the reliefs claimed in the suit, the jurisdiction of the civil court was not hit by section 185 of the Act. Accordingly, the judgments of the two courts below were upset by the High Court by the impugned judgment and the trial court was directed to decide the suit on all other issues on merits. Feeling aggrieved, the instant special leave petition has been filed, in respect of which leave has already been granted.

3. We have heard Mr. Gupta, the learned counsel appearing for the appellant and Mr. Namboodiri, the learned counsel appearing for the respondents. We have examined the impugned judgment of the High Court as well as of the courts below. The High Court in the impugned judgment held that Section 185 of the Act could not be applied in view of the nature of the reliefs claimed in the suit and therefore, the suit shall be heard on merits on the other issues. In view of the stand taken by us, as noted hereinafter, and considering the facts and circumstances of the case and the allegations made in the plaint, we are, prima facie, satisfied that this appeal can be disposed of by directing the trial court to decide the suit not only on the other issues on merits but also on the issue regarding the jurisdiction of the civil court to entertain the suit in view of section 185 of the Act.

4. Such being the stand taken by us at this stage, we are not going into the merits of the judgment of the High Court as well as of the courts below. The trial court shall now

commence the trial of the suit and decide the same on merits on all issues, including the issue whether the civil court has the jurisdiction to try the said suit in view of the bar of Section 185 of the Act. While deciding the suit, the trial court shall not be influenced by any of the observations made by us or in the impugned judgment by the High Court or by the courts below. The trial court shall decide the suit within a year from the date of communication of this order to it. With this modification in the order of the High Court, the appeal is thus disposed of. There will be no order as to costs.

JUDIS