

Jangli and Anothers

Vs

Deputy Director of Consolidation and Others

Civil Appeal No. 825 of 1980

(P. N. Bhagwati, R. S. Pathak JJ)

14.04.1980

ORDER

BHAGWATI, J. –

1. It appears from the order passed by the Deputy Director of Consolidation that he has decided the revision application in favour of respondents 4 of 9 on the basis of the decree dated September 11, 1950 without consideration the merits of the rival claims of the appellants and respondents 4 to 9. It appears that on September 11, 1950 when the decree was passed Ganesh was dead and there is nothing to show that the appellants how are his heirs were brought on record before the decree was passed. The decree was, therefore, clearly null and void and the Deputy Director of Consolidation was in the circumstances not entitled to rely upon it for the purpose of rejecting the claim of the appellants, The Deputy Director of Consolidation ought to have considered the rival claims of the parties on merits without taking into account the decree dated September 11, 1950.

2. We accordingly allow the appeal, set aside the judgment of the High Court as also the order passed by the Deputy Director of consolidation and remand the case to the Deputy Director of Consolidation for the purpose of disposing of the matter before him on merits, ignoring the decree dated September 11, 1950 as nullity. We may make it clear that in passing the Order we should not be understood to have expressed any opinion at all on the merits of the case. The case will have to be disposed of by the Deputy Director of Consolidation on merits in accordance with law. There will be no order as to costs of this appeal.

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