

Shafiqur Rehman Khan and Another

Vs

Smt. Mohammad Jahan Begum and Others

Civil Appeal No. 1649 of 1980

(CJI Y. V. Chandrachud, V. D. Tulzapurkar JJ)

18.08.1980

ORDER

1. Heard counsel. Special leave granted.
2. We set aside the judgment of the High Court dated June 30, 1980 and restore that of the learned Ist Additional District Judge, Lucknow dated April 19, 1979, with the following modification :

"The executing court will determine, with the help of Ex. 3 and such other evidence which the parties may adduce, whether the decree-holders have established satisfactorily the identity of the property in regard to which they have obtained the decree under execution. If the identity of the property is established, but not otherwise, the decree will be executed and the decreeholders will be put in possession of the property in accordance with law. It will, of course, be open to the judgment-debtors to show that the decree is incapable of execution for the reason that the property cannot be properly identified."

3. There will be no order as to costs.
4. The appeal shall stand disposed of in terms of this Order.

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