

Kapur Singh and Others

Vs

Devinder Singh and Another

Civil Appeal No. 1350 (N) Of 1973

(Syed M. Fazal Ali, A. D. Koshal JJ)

04.12.1980

JUDGMENT

KOSHAL, J. –

After we had heard learned counsel for the parties at length, they arrived at a settlement of which the terms are as follows :

- (1) Respondent 1 shall deposit Rs. 38,571 with the trial Court on or before May 31, 1981 for payment to the appellants and shall also file simultaneously an application praying to that Court for the appointment of a Commissioner who shall have the possession of the land decreed by the first appellate Court delivered by the appellants to respondent 1 on a day to be fixed by that Court, such date not being later than June 15, 1981.
- (2) On compliance being made with term No. 1, the appeal shall stand dismissed with no order as to costs.
- (3) If the amount mentioned in term No. 1 is not paid on or before the due date, the appeal shall stand accepted with no order as to costs, the decree passed by the High Court in favour of respondent 1 shall stand reversed and the suit shall stand dismissed with the result that the appellants shall be entitled to retain the land in dispute as owners.
- (4) If the amount is paid as per term No. 1, but the possession of the land is not delivered by the appellants to respondents 1 as stipulated, he shall be entitled to obtain such possession immediately through execution and in that event, such possession shall be delivered to him along with any crop standing on the land.
- (5) Whatever trees are standing on the land today shall not be cut or tampered with by the appellants.
- (6) After respondent 1 has obtained possession of the land either through the Commissioner appointed by the court for the purpose or through execution, the appellants shall become entitled to withdraw the amount deposited as per term No. 1.
- (7) The appellants shall give an undertaking to the court within 14 days from today that they shall hand over the possession of the land decreed by the High Court

voluntarily on or before June 15, 1981, when the Commissioner goes to the land for the purpose.

(8) If respondent 1 has already deposited any amount in the court for payment to the appellants (such amount is stated to be 9,000), he shall be deemed to have done so in part payment of the amount of Rs. 38,571 and shall be required to deposit only the balance of the amount last mentioned as per term No. 1.

(9) This settlement embraces all claims of the parties in respect of the property in dispute including those relating to mesne profits etc.

2. This appeal is disposed of in terms of the settlement.

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