

Damacherla Anjaneyulu and Another

Vs

Damcherla Venkata Sessaiah and Another

Civil Appeal No. 1227 of 1973

(M. P. Thakkar, B. C. Ray JJ)

19.02.1987

JUDGMENT

1. Whether or not the High Court was justified in passing a decree for specific performance in favour of the respondents-plaintiffs is the point at issue.

2. Having been taken through the records and the judgment under appeal, and having considered the submissions urged by counsel, we are of the view that whilst the High Court was right in upholding the finding that the plaintiffs were ready and willing to perform the contract whereas the defendant was guilty of the breach thereof, the High Court might well have invoked Section 20 of the Specific Relief Act, 1963 in order to do complete justice between the parties. Inasmuch as godowns and other costly structures have already been built on the land in question by the appellants (defendants) it would result in special hardship to grant specific performance. This is accordingly a fit case where the problem can be resolved by directing that instead of executing a sale deed of the land in favour of the plaintiffs, the defendant shall pay to the plaintiffs Rs. 1,25,000 being the approximate present value of 10 gunthas of land. We, therefore, substitute an order in the following terms in place of the decree passed by the High Court. The appellants-defendants shall pay to the respondents-plaintiffs a sum of Rs. 1,25,000 (Rupees One lakh twenty-five thousand only). This amount of Rs. 1,25,000 shall be paid to the plaintiffs within six months from today in two equal installments of Rs. 62,500 each. The first installment of Rs. 62,500 will be paid on or before May 31, 1987 and the second installment of Rs. 62,500 will be paid on or before August 31, 1987. In case of failure to pay any installment within time, the aforesaid amount will interest at 12 per cent today and will be recoverable by executing this decree. If payment is made in accordance with the aforesaid time limit, it will not carry any interest and this decree will stand satisfied upon the aforesaid amount being paid in the aforesaid manner. The appeal will stand disposed of in these terms with no order as to costs.

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