

Surendra Narain Shukla and Others

Vs

Prashidh Narain Shukla and Others

Civil Appeal No. 8919 of 1983

(O. Chinnappa Reddy, M. H. Kania, K. Jagannatha Shetty JJ)

07.08.1987

ORDER

1. On an earlier occasion when the matter reached the High Court, the High Court had given categorical findings that the plaintiff was entitled to partition of 1 anna 7 pies and odd share, that the plaintiff and defendants were in possession as co-sharers and that there was no question of ouster or adverse possession. In view of those findings, there was no need for the High Court to remand the matter to the lower appellate court for a fresh hearing. In fact we fail to understand what fresh hearing the lower appellate court was expected to give in face of findings recorded by the High Court. Though pursuant to the order of remand, the lower appellate court purported to rehear the matter, ultimately the lower appellate court granted a decree in accordance with the findings recorded by the High Court earlier. The second appeal filed thereafter by the defendants was rightly dismissed by the High Court in limine. We are unable to find any ground for interference at this stage, having regard to the earlier findings recorded by the High Court. The appeal is dismissed. No costs.

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