

Bhagwat Singh Jaswant Singh

Vs

State of Gujarat

Civil Appeal No. 838 of 1974

(M.P. Thakkar, N.D. Ojha JJ)

12.02.1988

ORDER

This is an appeal by certificate granted under Article 133(1)(a) by reason of the fact that the suit culminating in the present appeal was valued at more than Rs. 20,000 (valued at Rs. 20,830). The appellants are the original plaintiffs who had instituted a suit for recovery of damages. According to the plaintiffs, a parcel of forest land had been granted to them by the then ruler of the State of Lunawada before its merger in the then State of Bombay. They were deprived of the said forest land more specifically described in the plaint without authority of law from 1954 and 1963 by the State of Gujarat. It is the grievance of the appellant that the trees which were standing on the land in question at the point of time when they were dispossessed had been removed during this interregnum. The claim for damages was made on the basis of the valuation of the trees which were said to have been removed during the aforesaid time bracket. The trial court decreed the suit. The High Court came to the conclusion that the plaintiffs had failed to establish that there were any trees standing on the land in question at the point of time when the plaintiffs were dispossessed. The High Court also concluded that there was no evidence to show how many trees, if any, were standing at the time when possession of the land was handed back to the plaintiffs. Under the circumstances, the High Court was of the opinion that the appellants had failed to discharge the onus resting on their shoulders to establish that a particular number of trees had been removed and that they were entitled to claim damages in that behalf. Reliance had been placed on an application made by the appellants wherein the existence of a number of trees had been mentioned. But the contents of this application were not proved by adducing any evidence. No panchnama was drawn up at any point of time, that is to say, either at the point of time when the appellants were deprived of the possession or at the point of time when possession was restored to them. The High Court, in these premises, understandably refused to rely on this material. Reliance was also placed on oral testimony of Kalubhai who deposed that 33,000 trees were standing on the said land at the time when possession was taken from the plaintiffs. His evidence has been rightly discarded by the High Court as his evidence does not inspire confidence. The High Court accordingly reversed the decree passed by the trial court and dismissed the suit. We have been taken through the relevant record as also the material evidence and the judgment of the trial court as well as the judgment of the High Court. Having closely considered the same we are satisfied that the High Court has not committed any error in taking this view. The plaintiff have failed to discharge the burden resting on them to establish their claim. Under the circumstances, the appeal fails and is dismissed with no order as to costs throughout.

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