

Devi Prasad and Others

Vs

Banshi Lal and Others

Civil Appeal No. 854 of 1989

(N. D. Ojha, E. S. Vankataramiah JJ)

13.02.1989

ORDER

1. Special leave is granted. We have heard the appeal. The High Court has set aside the findings of the two lower courts and allowed the appeal. In the course of its judgment after setting out what the two courts below had done the High Court has observed thus :

"These findings are perverse and based on misreading of evidence.

But that as it may, the present second appeal does involve questions of law as also substantial questions of law for determination by this Court. All facts and documents have been examined by the two courts below and they are concluded by findings of facts and the findings can only be that the defendants-appellants have perfected their title and this Court under Section 100 of the Code of Civil Procedure has no alternative but to re-interpret the document and facts as placed at the bar by the learned counsel for the parties.

In the result, the appeal succeeds and is allowed with costs throughout."

2. We feel that the judgment of the High Court is highly unsatisfactory. There is no discussion of the relevant material for coming to the conclusion that the findings recorded by the courts below were perverse and were based on misreading of evidence. We do not find any valid reason given by the High Court for interfering with the judgment of the two courts below. We, therefore, set aside the judgment and decree of the High Court and remand the case to the High Court to dispose it of afresh in accordance with law after hearing both the parties.

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