

Vishwanath

Vs

Deputy Director of Consolidation and Others

Civil Appeal No. 839 of 1989

(Rangath Misra, K. Jagannatha Shetty JJ)

13.02.1989

ORDER

1. Special leave granted.

2. We have heard learned counsel for the parties and have perused the papers at length. The dispute relates to 1.88 acres of land and on September 30, 1973, there was a compromise between the disputants in regard to the property. The terms of the compromise clearly indicated, "That on Plot No. 665, area 1.88 acres situated in village Launda, Pargana Dhus, Distt. Varanasi the applicant has been continuing in possession since long back; therefore, we the opposite parties admit the title of the applicant as sirdar on the basis of possession." This compromise was acted upon and the consolidation authorities gave effect to this. It is true that the compromise was signed by the husband of the Mst. Akhlack Jahan, respondent 3 as also by her advocate. It is not the case of respondent 3 that her husband was not representing her interest and, therefore, was not entitled to enter into the compromise. Since the matter had once been settled and the consolidation authorities had acted on the compromise, the High Court should not have gone into the matter in exercise of its jurisdiction under Article 227 of the Constitution and make the impugned order of remand.

3. We allow the appeal, set aside the order of the High Court and sustain the order of the Consolidation Officer. Application for substitution is allowed. Parties are directed to bear their own costs.

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