

Col. Sujan Singh

Vs

Lt. Col. H. H. Yadvindra Singh (Dead) By Lrs.

Special Leave Petition (Civil) No. 7072 of 1990

(L. M. Sharma JJ)

18.05.1990

JUDGMENT

L. M. Sharma J:-

1. The impugned order has not been filed on the ground that a copy has not been made available to the petitioners in spite of an application.
2. I have examined the circumstances in which this case has arisen from the special leave petition and the other documents. It appears that a decree for eviction of the petitioner had been filed long time back and the petitioner had preferred a first appeal in the High Court, which was disposed of on compromise between the parties in 1977. In May 1977 a compromise decree was passed whereby the property in question was to be demarcated in two parts; one to be handed over to the decree holder respondents and the other to remain with the petitioner. Although the respondent has been attempting to get the fruits of the compromise decree, he has not been able to succeed for about 13 years. In this situation, the High Court has directed the petitioner to hand over the portion indicated by its order to the respondent. The petitioner challenges this order on the ground that the demarcation has not been made in accordance with law. I am assuming for the present that the petitioner may have a point on the question of the correctness of the demarcation indicated by the High Court. But, I think that the case should await the copy of the High Court judgment. The learned counsel for the petitioner has strenuously urged that in the meantime possession of the petitioner over the entire property should be maintained and the operation of the High Court direction should be stayed. Having considered all the circumstances, I think that in the present case it is not proper to pass an order of stay. The petitioner must obey the direction of the High Court within the time allowed and must hand over the demarcated portion to the respondent. If on further hearing this Court comes to the decision that the impugned order needs modification, the consequential order shall be passed and the parties will adjust their possession accordingly.
3. The case is adjourned and shall be listed when the petitioner files a copy of the High Court judgment. The application for stay (I.A. No. 2 of 1990) is dismissed.

Court Master

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