

Akilandathammal (dead) through Lrs

Vs

Hazarath Syed Sha Mian Sakkab Sahib and Others

D. V. Ramani and Others

Vs

Hazarath Syed Sha Mian Sakkab Sahib and Another

Civil Appeal Nos. 491 Of 1980 And 10102 And 10104 of 1983

(Kuldip Singh, N.M. Kasliwal JJ)

03.09.1992

JUDGMENT

KASLIWAL, J. –

1. On July 16, 1992, arguments were heard and concluded in Civil Appeal Nos. 491-492 of 1980, Civil Appeal Nos. 10102 to 10105 of 1983, Civil Appeal No. 3127 of 1979 and Civil Appeal Nos. 783784 of 1981 and judgment was reserved. Before pronouncing the judgment in the above cases, the parties submitted an affidavit regarding compromise in Civil Appeal No. 492 of 1980 and Civil Appeal Nos. 10103 and 10105 of 1983. In view of the compromise entered in these appeals, an order was passed by us on August 4, 1992 to the effect that the parties having entered into compromise, the appeals had become infructuous and dismissed as such. It may be noted that so far as Civil Appeal Nos. 491 of 1980 are concerned, the same had arisen out of a common judgment of the High Court dated October 11, 1979 by which two Civil Revision Petition Nos. 1176 and 1177 of 1978 had been disposed of. The parties were common in both these cases and the dispute was also in respect of the same property. The affidavit of compromise filed before those Court mentioned that the respondent Thaikal and the appellants had settled the dispute in respect of the property which was the subject matter of the present proceedings as a consequence of the decision of the panchayat on March 29, 1988. Consequent to the said compromise possession of the suit property was duly handed over to the respondent Thaikal on or about May 31, 1988. Though, this compromise was in respect of the same property which was the subject matter of both the Civil Appeal Nos. 491 and 492 of 1980, but in the affidavit regarding compromise mention was made of Civil Appeal No. 492 of 1980 only. In view of the above fact, we had passed the order on August 4, 1992 dismissing the Civil Appeal No. 492 of 1980 as having become infructuous. In view of the facts as stated above, we, therefore, dismiss Civil Appeal No. 491 of 1980 also, as having become infructuous.

2. Arguments in Civil Appeal Nos. 10102 to 10105 of 1983 were heard and judgment was reserved on July 16, 1992. On August 4, 1992 an order was passed dismissing the Civil Appeal Nos. 10103 and 10105 of 1983 as having become infructuous as the parties had entered into a compromise.

3. All the abovementioned four appeals arose out of a common judgment of the High Court dated February 22, 1983. The parties as well as the property in dispute was the same and according to the

compromise the dispute was settled out of court and the appellants had surrendered vacant possession of the suit premises to the respondent Thaikal on January 30, 1985. In view of the fact that in the affidavit regarding compromise mention was made of only Civil Appeal Nos. 10103 and 10105 of 1983 as such in our order dated August 4, 1992 also the aforesaid two Appeal Nos. 10103 and 10105 of 1983 were dismissed as having become infructuous. In view of the fact that all the four appeals, Nos. 10102 to 10105 of 1983, related to the same property and compromise had taken place in respect of the said property and vacant possession was also handed over to the respondent Thaikal on January 30, 1985, Civil Appeal Nos. 10102 and 10104 of 1983, also do not survive. We, accordingly, dismiss the Civil Appeal Nos. 10102 and 10104 of 1983 also as having become infructuous.

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