

Roshan Prasad and Another

Vs

Shiv Pal and Others

Civil Appeal No. 4303 of 1997

(CJI J.S. Verma, Sujata V. Manohar JJ)

07.07.1997

ORDER

1. Leave granted.
2. The appellants filed a suit for setting aside an auction-sale on the ground of fraud. The trial court and the revisional court held that the suit was maintainable but the High Court in a writ petition filed by the present respondent took the contrary view that the suit was not maintainable on the basis of Section 330(c) of the U.P. Zamindari Abolition and Land Reforms Act, 1950. Hence, this appeal by special leave.
3. A bare perusal of Section 330(c) of the U.P. Zamindari Abolition and Land Reforms Act, 1950 read with the proviso to Rule 285-K framed thereunder is sufficient to indicate that the institution of a suit in the civil court for the purpose of setting aside a sale on the ground of fraud is not barred. The High Court apparently overlooked the plain meaning of the proviso to Rule 285-K. Even otherwise, a suit of this nature does not fall within the ambit of the bar of jurisdiction of civil courts indicated under Section 330 of the Act.
4. Accordingly, the appeal is allowed and the impugned judgment of High Court is set aside. No costs.