

SUPREME COURT OF INDIA

Jhau Lal

Vs.

Mohan Lal

C.A.Nos.5339-5340 of 2013

(H.L.Dattu and Dipak Misra JJ.)

08.07.2013

ORDER

1. Leave granted.

2. These appeals are directed against the judgments and orders passed by the High Court of Punjab and Haryana in Civil Revision Petition (O & M) Nos.6838 and 6840 of 2010, dated 29.05.2012. By the impugned judgments and orders, the High Court has given a finding that the suit filed by the plaintiffs/appellants for declaration of permanent injunction claiming ownership of the property on the basis of adverse possession itself is not maintainable.

3. The Trial Court had dismissed the suit by invoking its powers under Section 35-B of the Code of Civil Procedure, 1908 ('the Code' for short) for non-payment of costs. Being aggrieved by the said order of the learned Trial Judge, the plaintiffs/appellants had filed the Civil Revision Petition Nos.6838 and 6840 of 2010. While disposing of the the aforesaid Civil Revision Petitions, the High Court has observed that the suit filed by the plaintiffs/appellants is not maintainable, based on the claim made that they are the owners of the property on the basis of adverse possession.

4. In our view, while deciding the Civil Revision Petitions, the High Court should have concentrated primarily on the ground on which the trial Court had dismissed the suit of the plaintiffs/appellants. There was no reason for the High Court to have observed in its order that the suit itself was not maintainable before the Trial Court. In that view of the matter, we cannot sustain the impugned judgments and orders passed by the High Court. Therefore, while disposing of these appeals, we remand

the matters to the High Court for fresh disposal in accordance with law, keeping in view the aforesaid observations made by us in the order. No costs.

Ordered accordingly.