

SUPREME COURT OF INDIA

Nafis Ahmad

Vs.

Narain Singh

C.A.No.8572 of 2003

(T.S. Thakur and C. Nagappan JJ.)

04.02.2014

JUDGMENT

C. NAGAPPAN, J.

1. The petitioners have sought for punishing the respondents for willful disobeying the judgment and decree dated 10.12.2007 of this Court in Civil Appeal No.8527 of 2003.

2. The case of the petitioners is that they were put in possession of the suit property pursuant to an agreement of sale with the owners on 3.5.1950 and they filed suit for declaration of their title and permanent injunction on 12.7.1996 and the suit was decreed but on appeal it was reversed by the Appellate Court and the High Court confirmed the same in second appeal and the petitioners preferred further appeal to this Court in Civil Appeal No.8572 of 2003, and during the pendency of the appeal the matter was settled and a Compromise Petition under Order 23 Rule 3 CPC was filed and this Court disposed of the civil appeal on the terms enumerated in the compromise petition, by judgment dated 10.12.2007 and the petitioners thus became owners of the property. The petitioners have alleged that respondent No.3 Ashiq Ali was a respondent in the civil appeal before this Court, admitting the title of the petitioners to the suit property. But respondent No.1 Patwari and Respondent No.2 Tahsildar have recorded the name of respondent No.3 namely Ashiq Ali in Khasra No.1276/1 in the year 2011 defying the decree of this Court.

3. Respondent No. 3 though served has not chosen to appear either through counsel or in person in this petition. Heard the learned counsel for the parties.

4. It is true that a compromise petition under Order 23 Rule 3 CPC came to be filed in Civil Appeal No.8572 of 2003 and this Court disposed of the appeal on the terms enumerated in the compromise petition. The terms of the compromise petition are relevant and are extracted below:

“The Petitioners have compromised with the legal heirs of deceased-Nabbu Khan at Rs.1,45,051/- (Rupees one lakh forty five thousand fifty one only) and the said legal heirs of deceased-Nabbu Khan received this money. Therefore from today onwards the legal heirs of the said Nabbu Khan shall have no concern with the lands in dispute bearing Survey Nos.1276/1 measuring 19 bighas; 1276/2 measuring 12 bighas and 1279 measuring 11 bighas and 19 biswas, the new Settlement numbers whereof are 1166 measuring 2-46 Hect; 1170 measuring 1-96 Hect i.e. total area 4-42 Hect., government cess Rs.70.32. The petitioners have been in continuous possession of the aforesaid lands since the times of their father. Petitioners-Mushtaq Ahmad etc., shall continue to remain owners and occupiers of the aforesaid lands. We, the defendants/respondents and legal heirs of Nabbu Khan shall not raise any objection whatsoever in future in this regard.”

5. It reveals that the petitioners herein have compromised with the legal heirs of deceased-Nabbu Khan with the lands in dispute and they admitted ownership of the petitioners and undertook not to raise any objection in future. Respondent No.3 Ashiq Ali is the legal heir of original Respondent No.2 in the Civil Appeal namely Maseet Ali and he was impleaded as such in the appeal. The legal representative Nos. 2(i) to 2(iv) of deceased original respondent No.2 Maseet Ali did not appear in the civil appeal though served and they did not enter into compromise with the petitioners. This Court disposed of the civil appeal declaring the rights of the petitioners vis-à-vis and the legal heirs of deceased –Nabbu Khan on the terms of compromise petition.

6. In such circumstances, there is no willful disobedience on the part of the respondents as alleged by the petitioners.

7. The Contempt Petition is, therefore, closed. However liberty is given to the petitioners to pursue the appropriate remedy available in law.