

SUPREME COURT OF INDIA

Vijay Laxmi

Vs.

Prabhu Devi

C.A.No.305-306 of 2017

(Kurian Joseph and A.M.Khanwilkar,JJ.,)

10.01.2017

JUDGMENT

Kurian Joseph, J.,

SLP(C) No.25720-25721/2012

1. Leave granted.

2. The appellants are before this Court aggrieved by the judgment dated 28.2.2012 in RSA No.250 of 1995 and RSA No.117 of 1998. The dispute essentially pertains to the claim made by the appellants and respondents in respect of two items of property. Item 1 to the extent of 6 biswas in Sector 2 of New Shimla and Item 2 to the extent of 17 biswas in Sector 4, Shimla.

3. Though the learned counsel appearing on both the sides attempted to raise several questions of law, having regard to the factual matrix, we are of the view that equity will work out in case each party is satisfied with one item. As far as the respondent Nos.1 to 5 are concerned, we are informed that they are residing there with a small house in 6 biswas of land. However, it is submitted that in case the respondent Nos.1 to 5 are given 17 biswas of land in Sector 4, Shimla, though according to them, the same is much less in value, the respondent Nos.1 to 5 are willing to give a quietus to the litigation, which started in the year 1985.

4. Mr. J.S. Attri, learned senior counsel appearing for the appellants, though made a submission that 17 biswas in Sector 4 is much higher in value, on a suggestion that whether the appellants are prepared to have 17 biswas for themselves and forgo 6 biswas, the answer was in the negative. Mr. Attri, learned senior counsel, however, submitted that the offer made by the respondent Nos.1 to 5 may be accepted and the litigation spanning for over three decades may be put an end to.

5. Therefore, these appeals are allowed as follows:

“i)The appellants shall be entitled to 6 biswas of land (Khasra No.19/1 Village Pateog) along with structure the reon, if any, in Sector 2 of New Shimla and Respondent Nos.1-5 shall be entitled to have 17 biswas of land (Khasra No.600/25 and 602/25 Village Pateog Pargana Jajhot, Tehsil and District Shimla) in Sector 4.

ii) The respondent Nos.1-5 shall handover vacant possession of the 6 biswas of land along with structure thereon, if any, within a period of ten months.

iii) The Respondent Nos.1-5 shall file an undertaking to that effect before this Court within one month from today.”

6. Needless to say, on such division, as above, the parties will be entitled to have absolute title and ownership in respect of the respective properties.

7. In view of the above, the impugned order is set aside and the appeals are allowed, as above.

8. There shall be no order as to costs.

9. Pending application(s), if any, shall stand disposed of.