



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO.1980 of 2024

MAHENDRA NATH SORAL & ANOTHER ... Appellant (s)

VERSUS

RAVINDRA NATH SORAL AND OTHERS ... Respondent(s)

J U D G M E N T

Rajesh Bindal, J.

1. The present appeal has been preferred against the judgment¹ passed by the High Court² in S.B. Civil First Appeal No. 170 of 2009, whereby the judgment and decree of the Trial Court³ was upheld.

2. The appeal arises out of a dispute between the parties pertaining to partition of the properties left by their ancestor/Late Rameshwar Nath Soral who died on 28.01.1996. He was survived by

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¹ Dated 19.09.2018

² Rajasthan High Court Bench at Jaipur

³ Civil Case No. 17 of 2006

three sons and two daughters. During the pendency of the litigation one of the daughter, Usha Sharma (Usha Soral) died on 09.05.2018 and her legal heirs were brought on record.

3. From the facts available on record, it is evident that a suit⁴ for partition was filed by the appellant no.1/Mahendra Nath Soral pertaining to the properties left by his late father, impleading his two brothers and two sisters as the defendants. However, in the present appeal the appellants are disputing the partition proceedings only with reference to the roof rights of Plot No.5, Professor Colony, Nayapura, Kota, measuring 2300.00 sq. ft. Besides this there was another property also bearing House No.15, Van Vihar Colony, Tonk Phatak, Jaipur.

4. The Trial Court passed the preliminary decree on 27.04.2005 holding all the legal heirs of Late Rameshwar Nath Soral entitled to equal shares in the immovable and movable properties.

5. The aforesaid preliminary decree was challenged by Ravindra Nath Soral and Surendra Nath Soral by filing S.B. Civil Regular First Appeal No.500 of 2005 and S.B. Civil Regular First Appeal No.481 of 2005, respectively before the High Court raising a grievance that Usha Sharma and Asha Soral who are daughters of deceased

⁴ Civil Suit No.27 of 2000

Rameshwar Nath Soral were given dowry items at the time of their respective marriages and they are not entitled to any share in the immovable properties in terms of Section 23 of the Hindu Succession Act, 1956; and that Surendra Nath Soral is not in possession of the ornaments, jewelry, gold and silver items.

6. The third appeal, S.B. Civil Regular First Appeal No.309 of 2001 arose out a suit filed by Ravindra Nath Soral and Surendra Nath Soral against Usha Sharma, her husband Mahesh Sharma and her son Mukul Sharma, seeking perpetual injunction with reference to one of the properties at Jaipur i.e. House No.15, Van Vihar Colony, Tonk Phatak, Jaipur. The suit was dismissed.

7. Nothing hinges on this suit as the issue raised in the present appeal is only with reference to the partition of the property.

8. The High Court vide common Judgment dated 18.09.2007 decided the aforesaid three appeals. S.B. Civil Regular First Appeal No.309 of 2001 was dismissed as infructuous.

9. Insofar as S.B. Civil Regular First Appeal No.500 of 2005 is concerned, it is evident that the issue sought to be raised was with reference to the rights of the daughters in the property. The same was

decided against the appellants and two daughters were held entitled to share in the properties left by Late Rameshwar Nath Soral.

10. The issue raised in S.B. Civil Regular First Appeal No.481 of 2005 was with reference to gold jewelry and silver items. The preliminary decree of the Trial Court in that regard was modified. This is also not a matter of consideration in the present appeal.

11. During the pendency of the suit before the Trial Court, an approved Valuer was appointed for valuation of the properties to be partitioned who submitted his report dated 08.08.2008 with reference to Plot No.5, Professor Colony, Nayapura, Kota.

12. Final decree⁵ was passed by the Trial Court on 03.01.2009. As per the details given by the Valuer with reference to Plot No.5, Professor Colony, Nayapura, Kota, the appellant no. 1 was held entitled to Portion-A on ground floor and the common portion attached thereto. The Appellant No.2 was held entitled to Portion-B on ground floor and common portion attached thereto. The Respondent No.2 was held entitled to Portion-C on first floor alongwith roof rights. The Respondent No.1 was held entitled to Portion-D on first floor alongwith roof rights.

⁵ In Civil Case No. 17 of 2006

13. Usha Sharma was independently held entitled to House No.15, Van Vihar Colony, Tonk Phatak, Jaipur. As the value of the aforesaid house was more, after deducting the amount to the extent of her share, she was directed to pay ₹33,96,813/- to the other four co-sharers. The share of the Appellant No.1 came out to a sum of ₹7,13,098/-, so was the amount to which the Appellant No.2/Asha Soral was held entitled to. Two other sons (namely, Ravindra Nath Soral/Respondent No.1 and Surendra Nath Soral/Respondent No.2) were held entitled to ₹9,85,309/- each, from Usha Sharma.

14. Ravindra Nath Soral and Surendra Nath Soral were held entitled to use and utilize the staircase for going on first floor and coming down as they were held entitled to shares on the first floor of the property. They were also given ownership of the roof of their respective portions. Besides this, the Court also directed for partition of the cash and jewelry amongst all the parties to the litigation.

15. The final decree was challenged by the appellants and another daughter Usha Sharma (now deceased), raising issue regarding valuation of the property and also roof rights of the house, in which the appellants were given two separate portions on the ground floor whereas the two sons were given two separate portions on the first floor along with roof rights. One of the daughters was given a

separate house. The High Court did not find merit in the arguments raised by the appellants before the High Court.

16. Impugning the High Court judgment, brief argument raised by the appellants was that in the valuation report dated 08.08.2008, the Valuer had failed to assess the value of the roof rights where further construction can be raised. If that part is taken into consideration, the valuation of the property will change and as a result of which all the four co-sharers of the property will have equal roof rights as well. The same shall not be limited to the said two co-sharers who have been given two separate portions on the first floor.

17. On the other hand, learned counsel for the respondents submitted that the issue was examined threadbare by the Trial Court as well as the High Court and on appropriate valuation of the property, as assessed by the approved Valuer, the shares of the parties were determined. The appellants are only trying to make the mountain out of a molehill. The appellants have been given certain additional rights on the ground floor and the respondents have been given rights on the roof. There is no error in the judgment of the High Court and the appeal deserved to be dismissed.

18. We have heard learned counsel for the parties and perused the relevant referred record.

19. The case in hand is an example of the bitterness amongst the legal heirs of Late Rameshwar Nath Soral with regard to the partition of the properties left by him. It is 'properties' vs 'proper ties'. 'Short term gain' vs 'Long terms relations'. One can either get share in the properties that too by litigating or can maintain proper ties amongst the family members with little give and take, and not going to the extent of minute details. It may not be a matter of dispute that none of the legal heirs of Late Rameshwar Nath Soral had contributed anything in acquisition of the plots or construction of the properties by themselves. Whatever is given to them is a kind of bounty but still they being greedy, not satisfied with whatever they received, are litigating for last more than two decades.

20. After the valuation of the property was done by the approved Valuer appointed by the court, after the preliminary decree was passed, the Trial Court determined the portions of the property (bearing Plot No.5, Professor Colony, Nayapura, Kota) coming to the share of four parties. Keeping in view the fact that, the property at Kota could not be partitioned with metes and bounds in four shares and the property at Jaipur was being maintained by Usha Sharma.

21. A perusal of the judgment of the Trial Court dated 03.01.2009 shows that certain objections were raised by the parties with reference to valuation of the property. However, it is not evident that the appellants raised any objection. Certain objections were raised regarding valuation of the property at Jaipur, however, the Court rejected the same. The Court also recorded that the proposal put forth by the parties for partition was agreed in principle and thereafter the properties were partitioned.

22. The partition of property in question amongst the legal heirs was upheld by the High Court. Certain additional rights were given to two legal heirs, namely, Mahendra Nath Soral and Asha Soral, who were allowed shares on the ground floor, whereas roof rights were given to Ravindra Nath Soral and Surendra Nath Soral who were granted portions in the first floor. If the argument raised by the appellants is to be accepted at this stage, the same would amount to coming back to square one, where all the properties will have to be revalued for the purpose of partition and this will open a new chapter of litigation between the parties. In our opinion that course is not the appropriate one in the case in hand, once the rights of the parties and their shares were determined by the Trial Court in the final decree

dated 03.01.2009 and the judgment of the Trial Court was upheld by the High Court on 19.09.2018.

23. The case in hand was one of the most appropriate case in which the Court should have tried for resolution of dispute by adopting alternate means namely mediation and conciliation. This Court in **Afcons Infrastructure Limited vs. Cherian Varkey Construction Company Private Limited and Others**⁶ had opined that dispute relating to partition/division amongst family members/coparceners /co-owners should normally be settled through Alternative Disputes Redressal (ADR) Process. Reference can be made to para 28 thereof:

“28. All other suits and cases of civil nature in particular the following categories of cases (whether pending in civil courts or other special tribunals/forums) are normally suitable for ADR processes:

(i) x x x x

(ii) *All cases arising from strained or soured relationships, including*

- disputes relating to matrimonial causes, maintenance, custody of children;
- disputes relating to partition/division among family members/coparceners/co-owners; and
- disputes relating to partnership among partners.

(iii) x x x x

⁶ (2010) 8 SCC 24; 2010 INSC 431

(iv) x x x x

(v) x x x x

The above enumeration of “suitable” and “unsuitable” categorisation of cases is not intended to be exhaustive or rigid. They are illustrative, which can be subjected to just exceptions or additions by the court/tribunal exercising its jurisdiction/discretion in referring a dispute/case to an ADR process.”

23.1 The Courts are required to explore these methods for amicable settlement of family disputes.

24. For the reasons mentioned above, we do not find any merit in the present appeal, the same is accordingly dismissed. There shall be no order as to costs.

.....J.
(RAJESH BINDAL)

.....J.
(PRASANNA BHALACHANDRA VARALE)

New Delhi
May 03, 2024.