Smt. Saroj Goyal and Others Vs Munshi Lal and Others

C.M.W.P. No. 41530 of 1996

Court: Allahabad High Court

Date of Decision: Dec. 5, 2002

Citation: (2003) 5 AWC 3520 : (2003) 95 RD 149

Hon'ble Judges: Rakesh Tiwari, J

Bench: Single Bench

Advocate: A.N. Bhargava, for the Appellant;

Final Decision: Dismissed

Judgement

Rakesh Tiwari, J.
Heard the learned Counsel for the parties and perused the record.

2. By means of this writ petition, the Petitioners have challenged the orders dated 28.8.1996 and 11.9.1996, Annexures-5 and 6 to the writ

petition, passed by Respondent Nos. 10 and 11 respectively.

3. The brief facts of the case are that Original Suit No. 50 of 1996 was filed by the Plaintiffs-Petitioners against Defendants-Respondents No. 1 to

9 in the Court of Civil Judge (S.D.) Mathura. The relief sought in this suit was for a permanent injunction on the ground that the Plaintiffs-

Petitioners are entitled to the property in dispute and Defendants-Respondents No. 1 to 9 have no right over the same. It is alleged in the plaint,

Annexure-1 to the writ petition, that right of Defendants-Respondents No. 1 to 9 on the property in dispute on the basis of alleged fictitious sale-

deeds in their favour was being disputed and that it was averred that the Petitioners are in possession over the same. It has been prayed in the suit

that Plaintiff''s possession may not be interfered by the Defendants. During the pendency of the suit Respondent Nos. 12 to 19 filed an

impleadment application on 1.2.1996 that they may be impleaded in the suit as they had purchased the property from Munshi Lal. An objection

was filed by the Petitioners against the impleadment application, which was decided against the Petitioners by the Civil Judge (S.D.) Mathura vide

order dated 28.8.1996.

4. Aggrieved by the order dated 28.8.1996, a revision was filed before the District Judge, Mathura. The District Judge, Mathura vide order dated

11.9.1996 dismissed the revision.

5. The counsel for the Petitioners contends that the Petitioners cannot be forced to implead any person and the impugned orders passed by

Respondent Nos. 10 and 11 are wholly illegal as they have been passed without considering the fact that no right could accrue for impleadment of

Respondent Nos. 12 to 19 in the suit as they had no right or title over the property in dispute on the basis of the sale-deeds, which have been

found to be defective and cancelled. It is further submitted that Respondent Nos. 12 to 19 are only trying to harass the Petitioners in getting

themselves impleaded so that they may try to interfere in their possession over the property in dispute.

6. If the necessary parties are not impleaded, the suit can be dismissed for non-joinder of parties. However, it would be in the interest of

substantial justice that all the concerned parties including Respondent Nos. 12 to 19 must be heard with regard to the disputed rights. No prejudice

would be caused to the Petitioners, if they are heard. On the contrary, if they are prevented from impleadment and hearing, injustice may be

caused to them as they claim right on the property in dispute. In these circumstances, it would be in the interest of substantial justice that

Respondent Nos. 12 to 19 are impleaded and the dispute between the parties is decided once for all after hearing all the persons concerned.

7. The Apex Court has time and again held that it is not only the duty of the Court to do justice, but also its duty to prevent injustice from being

done to any person. Sri A. N. Bhargava, learned Counsel for the Petitioners accepts this position of law and has now no objection to impleadment

of Respondent Nos. 12 to 19.

8. For the reasons stated, the writ petition is dismissed. Respondent Nos. 12 to 19 may be impleaded in the suit within one month from the date of

production of a certified copy of this order before the Court below in Original Suit No. 50 of 1996. Since the suit is of year 1996, it may be

decided expeditiously after giving opportunity of hearing to all the parties concerned.