courtkutchehry.com

Company: Sol Infotech Pvt. Ltd.
Website: www.courtkutchehry.com
Printed For:
Date: 03/11/2025

(1995) 05 AHC CK 0120

Allahabad High Court

Case No: First Appeal From Order No. 388 of 1994

Rinku alias Awadhesh Singh	APPELLANT
Vs	
Palakdhari and Others	RESPONDENT

Date of Decision: May 18, 1995

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 47 Rule 1, Order 47 Rule 8

Citation: (1995) 05 AHC CK 0120

Hon'ble Judges: N.L. Ganguly, J

Bench: Single Bench

Advocate: Fauzdar Rai, for the Appellant; S.N. Singh, R.N. Singh and A.K. Rai, for the Respondent

Final Decision: Dismissed

Judgement

N. L. Ganguly, J.
This First Appeal from Order is directed against the judgment and order dated 15.1.1994 passed by District Judge, Azamgarh by which the review application filed by the Respondents was allowed and original judgment in the civil appeal was set aside. A note was directed to be made in the register. The appeal was directed to register and as required by Order XLVII, Rule 8, CPC and rehearing of the whole appeal was directed. Before the court below while hearing of the review application was going on, it was brought to the notice of the court that the document by which the land in dispute was said to have been transferred was not a registered document. The said document was treated to be a document conferring title of the land in question. The court while considering the review application was of the view that the document which was unregistered, was taken into consideration as a document of title which was an apparent error. No doubt it was argued before the court below that certain other oral evidence was also considered while deciding the original appeal. That itself was sufficient to uphold the judgment passed by the court itself and there was no necessity of reviewing the judgment impugned.

2. Learned Counsel for the Appellant placed reliance on the decision Northern India Caterers (India) Ltd. Vs. Lt. Governor of Delhi, decision reported in Bhagwati Singh Vs. Deputy Director of Consolidation and Another, . It is submitted that in case of legal error in the judgment the review is not a remedy. The aggrieved party should have gone before the higher Court in appeal. The learned Counsel for the Appellant has not appreciated the observations made by the Hon''ble Supreme Court in the Judgment (supra). Thus the principle of law as enunciated by the Hon''ble Supreme Court is that It is for the court to reopen Its judgment If a manifest error is seen to have been done and it is necessary to pass an order to do needful and effective justice.

3. The perusal of the Impugned judgment shows that a material fact that the document treated by the court at the earlier occasion as document conferring title was unregistered. It is well-settled that in the matter of transfer, an unregistered document Is of no consequence and cannot confer any legal right. In such circumstances after considering the fact involved in the present First Appeal From Order, I am fully satisfied that the judgment does not suffer from any error of law. It fully complied with the requirements of Order XLV1I, Rule 1 of the Code of Civil Procedure.

4. The First Appeal From order is dismissed. The interim order passed shall stand vacated. In this case Sri R.N. Singh and Sri A.K. Rai put In appearance for the Respondents and the learned Counsel for the Respondents were present during the course of arguments.