

(2012) 01 JH CK 0013

Jharkhand High Court

Case No: F.A. No. 863 of 1993 (R)

Ravindra Taunk and Others

APPELLANT

Vs

Smt. Vasanti B. Taunk and
Others

RESPONDENT

Date of Decision: Jan. 12, 2012

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 23 Rule 1

Citation: (2012) 3 JCR 239

Hon'ble Judges: Poonam Srivastava, J

Bench: Single Bench

Judgement

1. This appeal is listed "For Hearing" today. Parties are present.
2. It is brought to my notice that a cross-objection was filed at the instance of Respondent Nos. 5, 6 & 7 which was objected by the appellants. The cross-objection was rejected on 9th March, 2011. I am informed by Mr. Indrajit Sinha, Advocate that this order is challenged before the Apex Court and the same is pending, therefore, the appeal can be heard only after the Hon"ble Supreme Court decides the matter.
3. Shri P.K. Prasad, Senior Advocate assisted by Mr. Ayush Aditya emphatically states that he is ready to withdraw his claim in respect of Item No. VII mentioned in the schedule and abandon his claim under Order XXIII Rule 1 of the CPC and the appeal may be heard. In respect of other properties mentioned in the plaint once again Shri Indrajit Sinha brought to my notice, an order of this Court where the I.A. under Order XXIII Rule 1 C.P.C. was pressed but the Court passed an order that the appellants' I.A. abandoning Item No. VII in the appeal shall be heard along with the appeal at the stage of final hearing.
4. In this peculiar facts and circumstances the only option left is that the appeal can be heard after the decision of the Apex Court.

5. There are a number of parties but the main contesting parties on the issue in question which is pending decision before the Apex Court are respondent Nos. 5, 6 & 7 vis. a vis. the appellant and the respondent No. 1. All the aforesaid parties are represented and are present in the Court today. The appellants have informed that they have put appearance, if not, they will file their appearance and get the matter finally adjudicated .

6. In the circumstances, parties undertake to make a request before the Hon"ble Supreme Court to decide the matter and do the needful.

7. I.A. No. 1811 of 2011 is kept pending.

8. Shri P.K. Prasad, Sr. Advocate has made a statement that in the event no decision is taken then his I.A. may be heard on a subsequent date.

9. As agreed between the parties, list this Appeal on 16th February, 2012 as 1st case for "Final Hearing/hearing of the I.A".

10. Let a copy of this order be handed over today to the Counsel for the parties.