

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 2505/2021

(Arising out of impugned final judgment and order dated 14-09-2020 in SA No. 376/2009 passed by the High Court Of Chhatisgarh At Bilaspur)

JIVRAKHAN CHANDRAKAR (DIED) THROUGH LRS & ORS. Petitioner(s)

VERSUS

PURANIK CHANDRAKAR & ORS. Respondent(s)

(FOR ADMISSION and I.R. and IA No.19318/2021-EXEMPTION FROM FILING O.T. and IA No.19321/2021-EXEMPTION FROM FILING AFFIDAVIT)

Date : 15-03-2021 This petition was called on for hearing today.

CORAM : HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE KRISHNA MURARI

For Petitioner(s) Mr. Sameer Shrivastava, AOR
Ms. Priya Kanwat, Adv.

For Respondent(s) Mr. Niraj Sharma, AOR

UPON hearing the counsel the Court made the following
O R D E R

By the judgment and order impugned in this Special Leave Petition, the High Court has reversed the concurrent findings of the Trial Court and the First Appellate Court.

On a perusal of the judgment and order, we find that the decree of the Trial Court and of the First Appellate Court have rightly been reversed. The High Court found that there was no evidence to show that the suit property in question had been retained by Brijlal Chandrakar since deceased, at the time when the joint family properties were partitioned in 1967.

A finding not based on any evidence can be interfered with in a second appeal. When there is a partition of joint properties, there is a presumption that all the properties have duly been partitioned unless the contrary is established by cogent evidence.

The fact that a few acres of agricultural land had been retained by Brijlal Chandrakar for himself, for cultivation is admitted and these agricultural lands were duly partitioned in 2001-2002 after the death of Brijlal Chandrakar. This cannot give rise to the presumption that other properties had also been retained by Brijlal Chandrakar.

We find no ground to interfere with the judgment and order passed by the High Court. Hence, Special Leave Petition is dismissed.

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

(NIRMALA NEGI)
COURT MASTER (SH)

(MATHEW ABRAHAM)
COURT MASTER (NSH)