

(2010) 02 AHC CK 0148
In the Allahabad High Court

Ram Sukh Sharma

APPELLANT

Vs

K.D.A.
B.N. Agnihotri Vs Hari Ji Nigam and Others and
K.D.A. and Others

RESPONDENT

Date of Decision : 25-02-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 100, 21, 47

Citation : (2011) 114 RD 263

Hon'ble Judges : Rakesh Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Sharma, J.—These four appeals were clubbed together under the orders of the Court. All the four appeals involve common questions of fact and law, hence these are decided together by a common judgement and order.

2. It is noteworthy that in the present litigation the lower courts , i.e., trial courts and the first appellate courts have at all stages recorded concurrent findings of fact to conclude that Buddh Narayan Agnihotri or the persons Ram Sukh Sharma and others alleging themselves to be his tenants were not the title holders, owners of the land in dispute situate in Kakadev, Kanpur Nagar. They were tress passers and were in illegal and unauthorised possession over the land in dispute.

3. It emerges from the record that in furtherance of planned development of Kanpur city which was expanding in all the directions, a housing scheme was to be established in Kakadev area in the western side of the Kanpur city. A large chunk of agricultural land in village Kakadev, Pargana and Tehsil Kanpur was acquired after completing the procedure as per provisions contained in Section 36(1) of the Town Improvement Act. The disputed plots were recorded as Arazi No. 538, 539, 541. The award was issued on 01.06.1957 and the possession was taken and the same was given to Nagar Maha Palika, Kanpur on 11.7.1957. After following a detailed proceedings land was vested in the State Government. Formal Gazette notifications were issued. Possession memo has been filed as

Annexure-1 (at page 17 and 19) to the counter affidavit in second appeal No. 328 of 2002. The land in dispute comprises Arazi Nos. 538, 539, 541(as per revenue entries), now recorded as plot No. 26M in Kakadev, Kanpur.

4. This land was earlier part of Mohal, Bancho Singh situate in village Kakadev, Tehsil and district Kanpur. After the award, possession of the land was given to Nagar Mahapalika on 11.7.57. Thus a residential housing scheme Kakadev Colony and a factory scheme came into existence. The plot No. 26 M, Kakadev having an area of 1797.65 Sq. mt. was allotted in favour of one Sri Hari Ji Nigam by Nagar Mahapalika on 16.6.1960. This allotment order dated 16.6.1960 has been annexed as Annexure-1 to the stay application filed in second appeal No. 443 of 2004. The possession was also delivered to him. However, the Kanpur Development Authority (in short, "KDA"), (erstwhile Kanpur Nagar Mahapalika) was not executing the sale deed in favour of Hari Ji Nigam. He was compelled to file original suit No. 667 of 1988 with a prayer that a mandatory injunction be issued against KDA for execution of the sale deed in respect of Arazi No. 538, 539, 541 having an area of 1797.65 Sq. Yd. This suit was decreed in favour of Hari Ji Nigam on 16.3.1989 under Order 8 Rule 10 CPC. Since suit was decreed and execution proceedings commenced, the KDA had executed a sale deed through court in favour of Hari Ji Nigam.

5. The order of possession was also issued in favour of Hari Ji Nigam. However, it appears that with the connivance of some officials of KDA, one Buddh Narayan Agnihotri (appellant in three appeals, that is, S.A. Appeals No. 1297 of 2002,, (327) of 2003 and (328) of 2003 appeared on the scene and forcibly took possession of the disputed plots. Buddh Narayan Agnihotri filed a suit No. 201 of 1991 against KDA claiming himself to be owner of the disputed plot. In the said suit, no interim injunction was granted in favour of Buddh Narayan Agnihotri. Against this inaction, he filed miscellaneous appeal No. 58 of 1993 which was also dismissed. Not being satisfied Buddh Narayan had filed an writ No. 275 of 1995 in this Hon"ble Court. This writ petition was also dismissed on 8.2.1995.

6. As mentioned earlier , the order of possession had already been issued in favour of Hari Ji Nagar. This was challenged by KDA by filing revision No. 276 of 1999. The said revision was dismissed on 29.9.1999 . No further proceedings were undertaken by the KDA challenging the order of dismissal of revision dated 29.9.99. Since execution proceedings regarding execution of saledeed and handing over of possession were finalised, the judgment and order dated 15.2.1992 had attained finality after the dismissal of the revision on 29.9.1999. Thus Sri Hari Ji Nigam became the owner having a valid sale deed executed in his favour and armed with an order of possession over the plot having an area of 1797.65 Sq. Mt. situate in plan and scheme No. 1 of Kaka Dev, Kanpur.

7. Buddh Narayan Agnihotri did not remain quiet. He filed an objection under Order 21 Rule 97 which was dismissed on 26.7.1995. The KDA also filed an objection u/s 47 C.P.C. which was also dismissed . After execution of the above said judgment and order and delivery of possession was resisted by Buddh

Narayan Agnihotri. Therefore, the plot owner Hari Ji Nigam moved an application u/s 21 Rule 97 CPC. This application was disposed of and objection of Buddhi Narayan Agnohotri was rejected. Aggrieved with the said order, the Buddhi Narayan Agnihotri filed an appeal which was summarily dismissed by learned District Judge on 7.8.2002 at the stage of admission.

8. Again, an order for delivery of possession in favour of decree holder was issued. Now, one Ram Sukh Sharma and Smt. Sarla Devi had appeared on the scene. They resisted the delivery of possession claiming themselves to be tenants of Buddh Narayan Agnihotri. Again decree holder Hari Ji Nigam had to approach the Court by moving an application 4 C under Order 21 Rule 97 C.P.C.. Ram Sukh Sharma and Smt. Sarla Devi had filed their objections. After hearing the parties, that is, Hari Ji Nigam, Ram Sukh and Smt. Sarla on the other side, learned Civil Judge had rejected the objection of the appellants ,i.e., of Ram Sukh and Smt. Sarla. The application of Hari Ji Nigam under order 21 Rule 97 was allowed. The Court had again ordered for issuance of order for delivery of possession. Ram Sukh and Smt. Sarla alleging themselves to be tenant of Buddh Narayan did not sit quietly. They filed Civil Appeal No. 4300 of 2004 in the court of Addl. District Judge, Kanpur. This appeal was dismissed on 19.4.2004. This judgment dated 19.4.2004 has been challenged in S.A. No. 443 of 2004 filed by Ram Sukkh and Smt. Sarla Theeoplus v. K.D.A. And Hari Ji Nigam. The first appellate court has recorded findings and conclusions in the judgment and order dated 19.4.2004. These are quoted below for convenience:

I have given my anxious consideration to the submission of the learned Counsel for the parties and have also thoroughly gone through the case law relied upon by them. Certainly these appellants were not respondents or party in any earlier suit or proceedings. But admittedly they are claiming themselves to be the tenant of Budh Narain Agnihotri. The claim, right and title of Budh Narain regarding the disputed house had already been decided in earlier proceedings under Order XXI Rule 97 C.P.C. and the objection of Budh Narain was rejected. Budh Narain filed appeal before the learned District Judge who vide his order dated 7.8.2002 dismissed the appeal of Budh Narain.

In view of above it is clear that right, title and interest of Budh Narain Agnihotri through whom the present appellants are claiming their right, title and interest, had already been decided earlier.

With profound respect to the observation of the Hon''ble Supreme Court in the cases referred above by the learned Counsel for the appellant those observations are not applicable to this case as the right, title and interest of these appellants or through the landlord Budh Narain Agnihotri whose right title had already been decided. The allotment was of the year 1960 but till today the Decree Holder in whose favour the decree has been passed has not received the possession of the disputed plot. One after other persons are coming forward to resist the execution of the decree in one or other ground lingering the proceedings. This further clarified that the present appellants have no right or title of their own and it also

appears that when the resistance of Budh Narain Agnihotri was nullified by the court by his instigation, his tenant the present appellant objected to the execution of the decree. So the claim of the tenant/appellants appears only fictitious and without any foundation and under such circumstances enquiry or investigation appears to be a futile exercise and as such no enquiry under Order XXI Rule 97 and 101 CPC is warranted.

In view of above, there is no point worth consideration or arguable in this appeal and as such the same should not be admitted for hearing. The memo of appeal without admitting for hearing is rejected.

9. In the present case, it is to be noted that Sri Buddh Narayan Agnihotri entered the scene after the execution proceedings commenced for execution of the sale deed and for delivery of possession of plot No. 26 M Scheme No. 1, Kakdev, Kanpur. During execution proceedings, he claimed himself to be owner of the plot in question, instituted two suits besides filing application under Order 21 Rule 97 in the execution proceedings No. 667 of 1997 filed by Hari Ji Nigam. The suit filed by Hari Ji Nigam was decided on 14.3.2001. The objection of Hari Ji Nigam under Order 7 Rule 11 was taken note and plaint was rejected. Against this order dated 14.3.2001 passed in suit No. 291 of 1991, the appeal was preferred and the same was dismissed on 16.7.2003. Against the order dated 14.3.2001 and 14.7.2003, the second appeal No. 327 of 2003 has been filed by Sri Buddhi Narayan Agnihotri which is pending disposal before this Court. This arises out of suit No. 201 of 1991. Similarly in respect of suit No. 1318 of 1993 filed by Buddh Narayan Agnihotri against Hari Ji Nigam, the plaint was again rejected. Taking note of application submitted by Hari Ji Nigam under O.17 Rule 11 C.P.C. the order was passed on 14.3.2001 and the appeal was also dismissed on 14.7.2003 against Buddh Narayan Agnihotri. He had again filed a second appeal No. 328 of 2003 against the order dated 14.3.2001 and 14.7.2003 arising out of suit No. 1318 of 1993. The court at Kanpur had rejected the plaint on the ground that the suit was not maintainable after completion of the land acquisition proceedings in accordance with law. Reliance was placed on two judgments of Hon'ble Apex Court in the case of State of Bihar Vs. Dhirendra Kumar and others, and Laxmi Chand and others Vs. Gram Panchayat, Kararia and others, where the Hon'ble Apex Court held that the jurisdiction of the Civil Court is totally ousted once the acquisition proceedings have been completed. This situation exists in the present case also.

10. As far as second appeal No. 1297 of 2002 is concerned, this arises out of proceedings under Order 21 Rule 97 C.P.C. filed by Buddhi Narayan in execution case No. 2600 of 1990 filed by Hari Ji Nigam relating to suit No. 667 of 1998. The application of Buddhi Narayan Agnihotri filed under Order 21 Rule 97 was rejected on 27.3.2002. Against this order an appeal was filed which was also rejected on 7.8.2002. The second appeal No. 1297 of 2002 had been filed against the order dated 23.7.2002 and 7.8.2002 passed on the application of Buddhi Narayan Agnihotri under Order 21 Rule 97.

11. Thus from the above it is amply clear that Buddhi Narayan Agnihotri did not claim any relief in his suit or in his application under Order 21 Rule 97 C.P.C. But even after orders of possession having been issued by the court giving fruits of such a long litigation to Hari Ji Nigam, Ram Sukh and Smt. Sarla had entered the scene and started resisting the handing over of actual possession to Hari Ji Nigam. Sri Hari Ji Nigam had filed a writ petition No. 8172 of 2003 seeking direction that the possession may be handed over to him. This writ petition was dismissed with directions that Hari Ji Nigam may file an application under Order 21 Rule 97 CPC. Accordingly Hari Ji Nigam filed the said application under Order 21 Rule 97 in execution case No. 2600 of 1990. This execution case arose out of suit No. 607 of 1988. After taking note of objections of Ram Sukh and Smt. Sarla claiming themselves to be tenant in the alleged property of Buddh Narayan Agnihotri, the court had allowed the application of Hari Ji Nigam on 3.3.2004. Ram Sukh and Smt. Sarla filed an appeal which as indicated earlier was dismissed on 19.4.2004.

12. The court had placed reliance on judgments of Hon''ble Apex Court in the case of Kazi Akeel Ahmed Vs. Ibrahim and Another, .

13. From the above chronology of events and factual matrix, it emerges that plot in dispute was sold on 10.6.1960 to Hari Ji Nigam long back . More than 49 years have passed and he could not get the possession and enjoy the use and occupation of property which he had purchased from Nagar Mahapalika, Kanpur or KDA after paying valid consideration and having a legal valid saledeed in his favour recognised by the appropriate civil courts at Kanpur. The appellants Buddhi Narayan Agnihotri, Ram Sukh Sharma and Smt. Sarla Devi have lost from all the courts, i.e., trial courts and first appellate courts at Kanpur. These four appeals are pending admission for the last more than 7-1/2 years and as such requires expeditious disposal to finally set at rest a controversy which is drawing attention of all the courts right from trial court, first appellate court and the execution court for the last more than four decades.

14. Sri Anil Kumar Singh , learned Counsel for the appellants Buddhi Narayan Agnihotri, Ram Sukh Sharma and Smt. Sarla has put forth his submissions. He has led the Court to the submissions made in the plaint, various applications, objections submitted by Buddh Narayan Agnihotri before the lower courts and this Court. According to him he had acquired the property on the basis of Izazatnama, that is, licence issued by erstwhile Zamindar of Kakadev village and other Mohals. Such licence or Izazatnama issued by Zamindar was never required to be registered. The Izazatnama was given for the purpose of raising construction over the land in dispute alleged to have been acquired by Nagar Mahapalika for the purpose of establishing a planned developed colony. Such Izazatnama is not required to be recorded in the revenue papers. After the abolition of Zamindari under U.P.Z. A.L.R. Act in 1950, the land was vested in the licensee u/s 9 of the U.P.Z. A.L.R. Act. Thus, after abolition of Zamindari, construction raised by Buddh Narayan Agnihotri, it vested in the licensee even

under Easement Act and as per Izazatnama. The appellant had become the owner of the land alongwith constructions raised upon the same after seeking permission from Zamindar. There is no description of plot number of property in dispute in award No. 107. The alleged possession letter filed alongwith the counter affidavit was forged one and fabricated. The possession letter dated 14.7.1991 according to Sri A.K. Singh was a forged letter. Neither the appellant nor the erstwhile Zamindar were impleaded as party nor a notice of execution was served on the appellants. The Izazatnama was filed in original suit No. 291 of 1991 which was a genuine document. The appellant is owner and is in possession of the property in dispute since 1946 on the basis of Izazatnama duly issued by the erstwhile Zamindar. The property is situate on plot No. 538,539,541 A&D. The courts below had relied on forged and fabricated document.

15. Sri A.K. Singh, learned Counsel for the appellants has vehemently argued that no land acquisition proceeding was ever initiated or taken place in respect of the property in dispute. Therefore, the appellant had no occasion to challenge the land acquisition proceedings. The KDA was in fact in collusion with the Hari Ji Nigam which was seeking demolition of the construction of the appellant. Under these circumstances he had filed the suits seeking permanent injunction . Much later he had learnt about the forged allotment order and decree obtained from the learned courts below . The respondents are trying to dispossess the appellant forcibly. Some events were brought to the notice of the Court that one Om Prakash Gupta who was associated with the respondents was murdered and a criminal case was fastened on the appellants and his family members. Several criminal cases were registered by the appellants against the respondents and his family members. Sri A.K. Singh has led the Court to various orders passed by the executing court, first appellate court and this Court. He has read the grounds contained in the memo of appeal and substantial questions of law framed by him as put forth in the memo of appeals.

16. It is noteworthy that these appeals are yet to be admitted as no substantial order has been passed by this Court till date for admitting the appeal and taking note of the substantial questions of law. No substantial order has been passed in these appeals at admission stage. These appeals have in fact come up for admission today.

17. Sri A.K. Singh has laid much stress in highlighting his argument on behalf of Buddh Narayan Agnihotri that the suit ought to have been decided after leading evidence and dealing with the issues raised by him before the executing court. In support of his submission, he has placed reliance on judgments rendered in Civil Misc. Writ Petition No. 8172 of 2003- Hari Ji Nigam v. Addl. Civil Judge(SD), Kanpur and another decided on 21.2.2003, Anwarbi Vs. Pramod D.A. Joshi and Others, , Tanzeem-e-Sufia v. Bibi Haliman and Ors. 2002(2) All RC 532 , Shreenath and Another Vs. Rajesh and Others, , Sanjay Verma v. Manik Roy and Ors. 2007(1) ARC 314, C. Natrajan v. Ashim Bai and Anr. 2008(1) ARC 26 , Popat

and Kotecha Property Vs. State Bank of India Staff Association, , Church of north of India v. Lavajibhai Ratanjibhai and Ors. JT 2005(5) SC 202 , Sudhir G. Angur and Others Vs. M. Sanjeev and Others, , S. Rajeswari Vs. S.N. Kulasekaran and Others, .

18. Sri Anurag Khanna, learned Counsel for the respondents has opposed the admission of appeals. He has taken the Court to various events which took place between 1957,60 till date. He has placed in detail the facts, dates and events. Learned Counsel brought to the notice of the Court details of each and every litigation which were brought for adjudication before the courts below at Kanpur. The facts of the case have already been mentioned in the foregoing paras. Learned Counsel for the respondents has submitted that the land in dispute comprises Arazi No. 538, 539, 541 situate in Mohal Bancho Singh in village Kakdev, Kanpur . The land was acquired u/s 36(1) of the Town Improvement Act, 1991. The acquisition proceedings stood finalised and possession of these plots was also given to Nagar Mahapalika on 11.7.1957.

19. Sri Anurag Khanna has drawn attention of the Court to the land acquisition award and the possession memo which was filed as Annexures No. 1&2 to the applications filed in second appeal No. 328 of 2003. He has read the "possession memo" in the open Court and led the Court to various paras of the plaint filed by Buddh Narayan Agnohotri in which plots No. 538, 539,540,541,542 were noted. The alleged Izazatnama dated 8.4.1991 also mentions these plots. If the plots were in the ownership of Sri Budha Narayan Agnihotri erstwhile Zamindar, no objections were ever raised by these persons before the land acquiring authority. No Repossession was sought by them. Even the appellant Buddh Narayan Agnihotri or his tenant never filed any objection at the time of the land acquisition proceedings before the concerned land acquiring authority. Neither objections were filed by the appellants nor any claim for payment of compensation was made from the Government. The alleged Izazatnama written in Urdu on Rs. 1/- stamp appears to be forged and fabricated. It is strange to note that this event of writing Izazatnama does not find place in the revenue entries.

20. The land is situate in Bancho Singh Mohal of Kakdev, Tehsil Kanpur, district Kanpur . Every village's land agricultural or abadi is recorded in the revenue entries. Such entries were on records after abolition of Zamindari in 1950. The records were scrutinised , settled and corrected. No revenue entries have been placed by the appellant to show that they were in occupation or in possession over the plots in dispute in Mohal Bancho Singh. He has laid much stress that the plots in dispute had already been acquired and possession was handed over on 11.7.1957. The description of the property acquired has been noted in the possession letter, award and all other documents. In fact the appellants are land grabbers and have illegally encroached on the land. All the courts below have recorded concurrent findings against the appellant. In appeal , the first appellate court had no right to enter into execution proceedings and his applications, and

the appellants" plaint were rightly rejected. The detailed orders were passed. Sri Anurag Khanna has relied upon the following judgements in support of his argument. State of Bihar Vs. Dhirendra Kumar and others, , Laxmi Chand and others Vs. Gram Panchayat, Kararia and others, , Kazi Akeel Ahmed Vs. Ibrahim and Another, , Chandigarh Administration through the Estate Officer, Union Territory Vs. M/s. Johnson Paints and Varnish Co., , Abdul Rahman Vs. Prasony Bai and Another, .

21. I have heard the learned Counsel for the parties at length and perused the materials on record. I have also gone through all the judgements and orders rendered by the first appellate court at Kanpur, and the judgement and order rendered by this Court in w.p. No. 8172 of 2003 on 27.2.2003. It is admitted to the parties that the land in dispute comprises Arazi No. 538, 539, 540 now being plot No. 26 M in Kakadev colony. It has been demonstrated before the Court by placing the "land acquisition award" and the "possession certificate" issued by the office of Land Acquisition Collector, Kanpur on 11.7.1957 that the plot Nos. 538, 539, 540, 542 were legally validly acquired after following due procedure and the possession of plots was handed over to the Nagar Mahapalika, Kanpur. The procedure as prescribed under regulation 434, 435 of the Revenue Manual was followed in handing over the possession of property to Nagar Mahapalika.

22. The land was acquired for the purpose of establishing a factory area and residential schemes. List of plots duly signed by revenue Amin on 19.4.1957 has been placed on record. Same plots 538, 539, 542, 545 have been mentioned in the plaint submitted by Buddhi Narayan Agnihotri before the court below. It is now amply clear on the basis of documentary evidence that the plots in dispute claimed to be in the ownership of appellants had already been acquired and the possession was handed over to Nagar Mahapalika on 19.1.1957. The land had already vested in State Government and thereafter in the Local Body. No question arises of appellants claiming authorised legal valid possession over the said plots. All the courts below have recorded concurrent findings of fact that the disputed land was acquired by the land acquiring authority of the State Government at Kanpur. The possession was handed over to Nagar Mahapalika on 11.7.57 and in these circumstances, the appellant Buddh Narayan Agnihotri or alleged tenants Ram Sukh Sharma and Smt. Sarla etc. had no right to stall the execution proceedings and enter the litigation. All the courts below have recorded detailed concurrent findings of fact based on oral and documentary evidence put forth by the parties.

23. The land in question after its acquisition had vested in the State and thereafter in Nagar Mahapalika. It had allotted the land in favour of one Hari Ji Nigam as plot No. 26 M on 10.6.1960. The allotment order was issued more than 49 years ago, i.e. on 16.6.1960. The sale deed was also executed on the intervention of the Court , i.e., by the order passed in Execution Case No. 2600 of 1990 on 15.2.1992. Thus Hari Ji Nigam became legal and valid owner of the land in dispute on 15.10.1992. All the proceedings initiated against this order by

Buddhi Narayan Agnihotri and Nagar Mahapalkia, Kanpur were dismissed. Right till date all the applications, objections, petitions first appeal filed by Buddhi Narayan Agnihotri, Ram Autar Sharma and Smt. Sarla have been dismissed by all the court in the light of the factual matrix as spelt out in the foregoing paras. The courts had relied on the ratio as indicated in the judgment as rendered by Hon''ble Apex Court in State of Bihar v. Dhirendra (Supra) to hold that the jurisdiction of the civil court is totally ousted once the acquisition proceedings have been completed. The courts had also placed reliance on the judgements as reported in Kazi Aqeel wherein it has been held that in case the claim of the parties have been adjudicated in a suit then an application u/s 21 is liable to be dismissed. There is substantial force in the submission of Sri Anurag Khanna that as per provisions contained in Order 14 Rule 2(2) C.P.C. where issues both in law and fact arises in the same suit and the Court is of the opinion that the case or part thereof may be disposed of on issue of law. It may try on that issue if that issue relates (i) jurisdiction of the Court or (b) the bar of the suit created by any law for the time being enforced. The application of Hari Ji Nigam under Order 7 Rule 11 was based on the fact that the suit itself was barred in view of the fact that the land had already been acquired and had vested in the State and hence no suit was maintainable in the Civil Court. The court below had rightly proceeded to decide the question of jurisdiction first on application under Order 7 Rule 11 filed by Hari Ji Nigam and contested by the appellants.

24. The judgements cited by Sri A.K. Singh learned Counsel for the appellant are not applicable in the present set of circumstances. In the present case all the courts have recorded concurrent findings of facts in arriving at these conclusions and rejected the application of Buddh Narayan Agnihotri, Sri Ram Sukha Sharma and Smt. Sarla. In such situation, no substantial question of law has been made out. The case laws cited by Sri Anurag Khanna are applicable.

25. This Court in view of above is unable to entertain the appeal and stretch the litigation for some more years. The controversy is more than 49 years old and must be set at rest.

26. In view of the above, there is nothing on record to persuade the Court to form any other opinion other than the one recorded by the two courts below writing concurrent findings of fact. No substantial question of law arises to be considered in this Second Appeal to persuade this Court to take a different view of the matter. No ingredients or elements as required to be attracted u/s 100 of the CPC are available in this case. This Court has also scrutinized this case in the light of the law laid down by the Hon''ble Apex Court in the Judgements reported in Bachhaj Nahar Vs. Nilima Mandal and Another, - Bhuri Bai and Others Vs. Ramnarayan and Others, - Kashmir Singh Vs. Harnam Singh and Another, , Kondiba Dagadu Kadam Vs. Savitribai Sopan Gujar and Others, , - Kashibai and Another Vs. Parwatibai and Others, - State Bank of India and Others Vs. S.N. Goyal, , Gurdev Kaur and Others Vs. Kaki and Others, and Corporation of City of Bangalore v. Syed Iqbal Hussain (2005) 9 Scc 362 and do not find any

ingredients as required u/s 100 of the CPC are attracted in the present case.

27. Accordingly, the appeals are dismissed. All the consequences shall follow. The execution proceedings shall immediately commence and be finalised. The record of lower court shall be immediately remitted back.