

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.2919/2020
(Arising out of SLP(Civil)No.8631 of 2020)

THE ORIENTAL INSURANCE CO.LTD. ...APPELLANT(S)

VERSUS

MEENA & ORS. ...RESPONDENT(S)

O R D E R

Leave granted.

The submission of the learned counsel for the appellant is that the condition imposed by the High Court in terms of the impugned order dated 13th December, 2019 is unworkable in its character since the Insurance Company cannot look after the trees and thus whatever order was required was to be passed in pursuance to the failure of the appellant to bring the legal heirs of respondent No.5 on record. It is his submission that the panacea should have been addressed by imposition of cost.

We are in agreement with the submission of the learned counsel for the appellant to the extent that the latter part of the order possibly become unworkable. However, the initial part of the order reads as under:

"Despite several opportunities, the appellant/insurer has not taken any steps to bring on record the LRs of respondent No.5 or to serve them notice.

The appeal is liable to be dismissed."

The aforesaid shows that the appellant-Insurer failed to take steps to bring on record the legal heirs of respondent No.5 despite several opportunities and the appeal was liable to be dismissed.

The learned Judge apparently showed consideration by not dismissing the appeal and imposing the conditions with which the appellant is aggrieved.

We are of the view that the appropriate course of action for the learned Judge should have been to dismiss the appeal in this case pending before the High Court and consequently we modify the impugned order to one of dismissal of MAC.App.No.863 of 2018 pending before the High Court without the condition being imposed as set out in impugned order as under:

"However, the learned counsel for the appellant seeks one last opportunity to effect the service of notice. It is so granted, subject to appellant planting 100 trees at the Central Ridge in 'Insaaf Bagh'. The duly authorized representative of the Insurance company, shall appear before the DCF (South) on 27.12.2019, who shall indicate to the authorized representative the forest lands under his care where the trees shall be planted. The trees shall be of deciduous indigenous variety and they shall have a nursery age of three and a half years and shall have a minimum height of at least six feet.

The insurance company shall take care of the trees for the next six months. Depending upon the soil type and topography, the DCF may consider the following types of trees for plantation:-

- | | |
|-------------------------------|------------------------------------|
| (i) Gular(Cluster Fig) | (ii) Kadamba (Burflower Tree) |
| (iii) Pilkhan (White Fig) | (iv) Jaamun (Black Plum) |
| (v) Bargad (Banyan Tree) | (vi) Mango |
| (vii) Amaltas (Golden Shower) | (viii) Mahua (Butter Tree) |
| [Indian Laburnum] | |
| (ix) Putranjiva | (x) Badh |
| (xi) Sagwan (Teak Wood) | (xii) Safed Siris(Albizia Procera) |
| (xiii) Kala Siris | (xiv) Anjeer |
| (xv) Kathal-Jackfruit | (xvi) Palash |
| (xvii) Arni | (xviii) Bistendu |
| (xix) Rohida | (xx) Medshingi |
| (xxi) Palash/Tesu/Dhak | |

Compliance Report alongwith photographs shall be filed both by the officer concerned and the DCF by 30.01.2020."

The aforesaid direction is set aside.

The appeal accordingly stands disposed of.

.....J.
(SANJAY KISHAN KAUL)

.....J.
(AJAY RASTOGI)

New Delhi,
Dated 6th August, 2020.

ITEM NO.3 Court 7 (Video Conferencing) SECTION XIV
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 8631/2020

(Arising out of impugned final judgment and order dated 13-12-2019 in MACAPP No. 863/2018 passed by the High Court Of Delhi At New Delhi)

THE ORIENTAL INSURANCE CO. LTD. Petitioner(s)

VERSUS

MEENA & ORS. Respondent(s)

(FOR ADMISSION and I.R. and IA No.64972/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 06-08-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE AJAY RASTOGI

For Petitioner(s) Mr. Pradeep Gaur, Adv.
 Mr. Amit Gaur, Adv.
 Mr. Rameshwar Prasad Goyal, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application shall also stand disposed of.

(ASHA SUNDRIYAL)
ASTT. REGISTRAR-cum-PS

(ANITA RANI AHUJA)
ASSISTANT REGISTRAR

(Signed order is placed on the file.)