

Parveen Bee Vs. Sushila Devi

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Court : Madhya Pradesh

Decided On : May-03-2013

Appellant : Parveen Bee

Respondent : Sushila Devi

Advocate for Def. : Shri. G.P.Singh

Advocate for Pet/Ap. : Shri. Shakeel Ahmed

Judgement :

Second Appeal No.868/2012 (Parveen Bi .Vs..Sushila Devi) 03-05-2013 Shri Shakeel Ahmed, learned counsel for the appellant.

Shri G.P.Singh, learned counsel for the respondent.

This appeal has been filed by the appellant/defendant being aggrieved by the judgment and decree dated 4-7-2012 passed by the Fourth Additional District Judge (Fast Track).Katni, in Civil Appeal No.58-A/2011 whereby the judgment and decree dated 14-11-2011 passed by the Second Civil Judge Class-I, Katni in Civil Suit No.2-A/2010 has been affirmed and confirmed and the suit filed by the respondent/plaintiff for eviction of the appellant from the suit premises on the ground of nuisance has been affirmed.

It is submitted by the learned counsel appearing for the appellant that both the Courts below have in fact recorded a finding to the effect that it was the

plaintiff/respondent herself who was creating nuisance and impediment in peaceful enjoyment of the accommodation and in such circumstances the alleged nuisance was being created by the respondent/plaintiff herself and not by the appellant and therefore the finding recorded by the Courts below suffers from perversity and material irregularity.

It is further stated that the finding recorded by the Courts below regarding nuisance suffers from perversity as it is based on no evidence and in such circumstances the impugned judgment and decree of eviction be set aside.

Having heard the learned counsel for the parties and having perused paragraphs 17 to 29 of the trial Court's judgment and paragraphs 27 to 32 of the appellate Court's judgment it is clear that both the Courts below have applied their mind to the issue raised by the appellant and have considered and analyzed in detail the oral and documentary evidence on record to the effect that several criminal complaints have been filed against the appellant and her family members as well as other instances of nuisance and thereafter recorded a finding regarding nuisance against the appellant, therefore, the contention of the appellant that the same is based on no evidence is apparently incorrect.

That apart, the submission of the appellant that the decree has been passed against him in spite of recording a finding against the respondent/plaintiff regarding nuisance is also apparently incorrect as the Courts below have recorded a finding of nuisance against the appellant and it is only on that basis that the judgment has been passed as is evident from a perusal of the aforesaid paragraphs of the trial Court's and appellate Court's judgment as well as the documents available on record.

I am of the considered opinion that the concurrent finding recorded by both the Courts below does not suffer from any perversity giving rise to any substantial question of law.

In view of the aforesaid, the appeal filed by the appellant/ defendant being meritless is accordingly dismissed.

(R.S.Jha) mct Judge

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