

Sunil Kumar Vs. Ajay Kumar

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Court : Delhi

Decided On : Sep-13-2013

Judge : V.K.Shali

Appellant : Sunil Kumar

Respondent : Ajay Kumar

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + RSA 136/2012 Decided on :

13. h September, 2013 SUNIL KUMAR Appellant Through: Mr.R.K.Dubey, Advocate. Versus AJAY KUMAR Respondent Through CORAM: HON'BLE MR. JUSTICE V.K. SHALI V.K. SHALI, J (ORAL) CM No.13982/2013 1. This is an application for restoration of the present regular second appeal.

2. I have heard the learned counsel for the appellant and have also gone through the record.

3. For the reasons stated in the application, the appeal is restored to its original number. RSA No.136/2012 1. The learned counsel for the appellant has been heard with regard to the formulation of substantial question of law involved in the present regular second appeal. However, I am satisfied that no substantial question of law is involved in the matter.

2. Briefly stated, the facts of the case are that the appellant herein filed a suit for recovery of `30,000/- (Civil Suit No.566/2007) against the respondent for having done some contract work (kaaj button) on some garments. Respondent herein had denied the assignment of any work to the appellant. After framing of issues, the learned trial court permitted the parties to adduce the evidence and the suit for a sum of `30,000/- was decreed in favour of the appellant along with interest at the rate of 9% per annum on 03.11.2010. The respondent preferred an appeal against the said judgment and decree which was heard and disposed of by the learned ADJ on 09.04.2012. The learned ADJ after revisiting the entire evidence, returned a finding that the appellant has not been able to prove any assignment of work by the respondent to the appellant either orally or by the documents produced by him nor was he able to establish that the rate of work assigned to him was `1.75 per piece. The learned ADJ has given detailed reasons of the same in para nos. 8 to 16 in this regard.

3. I have gone through the impugned judgment and do not find infirmity in the appreciation of evidence and certainly it is not the case of the appellant that the judgment of the first appellate court suffers from any perversity.

4. Merely because this is the second appellate court and it can on re-appreciation of evidence arrive at a contrary finding, itself cannot be a ground to substitute its own opinion in place of the opinion returned by the first appellate court. This being a regular second appeal, the learned counsel for the appellant has to show to the court that any substantial question of law is involved.

5. Since there is no substantial question of law arising from the present appeal, accordingly the same is dismissed. V.K. SHALI, J SEPTEMBER 13 2013/dm

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