

Richa Devi Vs. Ram Dass

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Court : Delhi

Decided On : Apr-23-2014

Judge : Valmiki J. Mehta

Appellant : Richa Devi

Respondent : Ram Dass

Advocate for Pet/Ap. : Mr. P.K.Nayyar

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + % RSA No.48/2014 23rd April, 2014 RICHA DEVIAppellant Through: Mr. P.K.Nayyar, Advocate. VERSUS RAM DASS Respondent Through: CORAM: HONBLE MR. JUSTICE VALMIKI J.MEHTA To be referred to the Reporter or not?. VALMIKI J.

MEHTA, J (ORAL) 1. This second appeal is filed under Section 100 CPC impugning the concurrent judgments of the courts below; of the trial court dated 3.7.2004 and the first appellate court dated 5.10.2013; by which, the suit of the respondent-plaintiff for possession and mesne profits with respect to the property bearing No.183, Tilak Khand, Giri Nagar, Kalkaji, New Delhi was decreed.

2. The facts of the case as pleaded by the respondent-plaintiff was that he was allotted this quarter being an industrial worker and at one stage since Page 1 of 4 he ceased to be an industrial worker, the department informed him that the allotment would be cancelled, and at which stage, the respondent-plaintiff

requested that the property be transferred to the name of Jeevan Lal, late husband of the appellant-defendant. However, ultimately this quarter was not allotted to Jeevan Lal and the respondent-plaintiff Sh. Ram Dass continued to be the owner of the suit property.

3. The appellant-defendant pleaded that the suit property allotted in the name of Jeevan Lal, her late husband, and which is clear from the letter dated 7.12.1979 Ex.RW2/1, issued by the department. Accordingly, the suit was prayed to be dismissed.

4. Both the courts below have held that the allotment in favour of respondent-plaintiff was never cancelled and no allotment was ever granted in favour of Jeevan Lal, late husband of the appellant. Courts below have referred to the fact that the document Ex.RW2/1 dated 7.12.1979 is not issued by the department and appropriate noting states that this fact has been proved on record as Ex.RDW3/R-1. In fact the aspect that there could not be allotment to Jeewan Lal, husband of the plaintiff was communicated to Jeewan Lal vide letter dated 14.4.1981 which has been proved as Ex. RDW3/R-2. Even the bank draft which was sent was also returned to the Page 2 of 4 appellant-defendant vide letter of the department dated 18.3.1997, Ex.RDW3/R4. Accordingly both the courts below have held that the respondent-plaintiff continued to be the owner of the suit property and therefore the suit for possession and mesne profits was decreed.

5. The first appellate court has summarized the complete position in para-10 of the impugned judgment which reads as under:

10. After hearing the arguments and going through the record, I found that the trial court has decreed the suit on the ground that it was Ram Dass in whose favour the suit property was allotted and the appellant/defendant failed to adduce any documents or evidence, that the allotment in favour of Ram Dass was cancelled or that it was allotted in the name of Jiwan Lal. So many documents were placed on record in this regard and ultimately the complete file of the Labour Commissioner was kept on record to avoid any controversy with the consent of both the parties. From the documents on the file it is revealed that originally the suit property was allotted in the name of Ram Dass, there is no dispute about that. It was allotted to

him being an employee of Federal Lloyds Corp. Pvt. Ltd. Thereafter, a letter was sent to him which is on record that as he ceased to be an industrial worker, therefore, within six months from the date he has ceased to be industrial worker that is 14.12.73. he was required either to regain his status as industrial worker or shall vacate the quarter. It was also mentioned in the letter that if he fails to vacate he said quarter then he will be liable to be evicted. There is nothing on record brought or available in the file of the Labour Commissioner the any action in this regard was thereafter taken against Sh.Ram Dass for getting the same vacated from Sh. Ram Dass or to cancel the allotment in the name of Ram Dass. Jiwan Lal also applied for transfer of the suit property in his name as Ram Dass ceased to be industrial worker. He alleges that one letter was sent to him in this regard but there is a specific averments by the witness and also the document to this effect and a nothing on the file, copy of which has been proved as Ex.RDW3/R1 that this quarter was never allotted to Sh.Jiwan Lal and the letter dt. 7.12.79 was never issued by the department to Sh. Jiwan Lal mentioning that the suit property is allotted in his name. There are specific letters written by the defendant to Sh.Jiwan Lal which were also received by him and also by the defendant/appellant herein that suit property can not be allotted to Sh. Jiwan Lal. Copy of the letter received by Jiwan Lal is Ex.RDW3/R3, wherein it was communicated to him that the quarter No.TK183 which is in the name of Ram Dass can not be transferred in his name and the copy of letter which has Page 3 of 4 been received by the appellant /defendant herein is Ex. RDW3/R2. Wherein it was again mentioned that the quarter No.183 TK which is in the name of his brother (i.e. Ram Dass) now according to the rules can not be transferred in the name of Jiwan Lal. In view of this entire evidence, it is clear that the quarter in dispute was never allotted to Sh. Jiwan Lal as alleged, rather the rules prohibits transfer of the quarter in the name of the brother as mentioned in RDW3/R2. There is no evidence brought on record or is available on the file that this suit property was ever allotted to Sh. Jiwan Lal or that Jiwan Lal or his family members were having any right to possess the same. In view of the above discussions and the documentary evidence on record and also the fact that the suit property was allotted in the name of Ram Das which is not cancelled till date by the Labour department and no action is initiated on the basis of said letter, I found myself unable to differ with the opinion of the Ld.Trial

Court. There is no merit in the appeal. The same is dismissed. Trial court be sent back along with copy of Order. File of Labour Department be also sent back. Appeal file be consigned to R/R.

(underlining added) 6. In view of the above, I do not find any error committed by the courts below, and no question of law much less any substantial question of law arises under Section 100 CPC, for this appeal to be entertained. The appeal is therefore dismissed, leaving the parties to bear their own costs. APRIL23 2014
VALMIKI J.

MEHTA, J.

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