

Mukesh Kumar Vs. Pushpa Rani

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Court : Delhi

Decided On : Nov-21-2014

Judge : Sunil Gaur

Appellant : Mukesh Kumar

Respondent : Pushpa Rani

Advocate for Pet/Ap. : Ms. Seema Gupta

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI Date of Decision: November 21, 2014 + RSA3512014 & C.M. No.19135-36/2014 MUKESH KUMAR Through: Appellant Ms. Seema Gupta, Advocate versus PUSHPA RANI Respondent Through: Nemo. CORAM: HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

(ORAL) % The concurrent findings returned against the appellant are that he is a licensee in the suit property. The courts below have directed appellant to vacate the suit property. The factual background of this case stands noted in the impugned judgment and needs no reiteration. The question raised in this second appeal is as to whether the appellant was a tenant or a licensee in the suit premises. Learned counsel for appellant contends that appellant was a tenant and the tenancy was oral and the appellant was in possession of the suit property since the year 2001. Attention of this Court was drawn to page No.162 onwards of

the paper book to show that the appellant is in possession of the suit property. It is pointed out that deposition of Ms. Ram Devi (DW-2), a neighbor, has been misread by the First Appellate Court. Learned counsel for appellant submits that although appellant is claiming to be a tenant but is RSA No.351/2014 Page 1 denying the title of respondent-plaintiff in the suit property. Upon hearing and on perusal of the judgments of the courts below and the material on record as well as decision cited, I find that the settled legal position is that a tenant cannot dispute the title of a landlord. The documents relied upon by appellant merely show that appellant is in possession of the suit property but this by itself is not enough. Infact, the concurrent findings returned by both the courts below are that there is hardly any evidence on record to show that the appellant is a tenant in the suit property. Attention of this Court is not drawn to any oral evidence to show that the appellant-defendant was a tenant in the suit property. The deposition of Rama Devi (DW-2) only shows that appellant is in possession of the suit property and nothing more. Since relationship of landlord and tenant between the parties is not established, therefore, reliance placed by appellants counsel upon Apex Courts decision in Tribhuvanshankar Vs. Amrutlal (2014) 2 SC788 is of no avail. In the considered opinion of this Court, no substantial question of law arises in this second appeal. Finding no perversity in the concurrent findings returned against the appellant, this second appeal and the applications are dismissed with no order as to costs. (SUNIL GAUR) JUDGE NOVEMBER 21 2014 r RSA No.351/2014 Page 2