

Satyawan Vs. Dharam Pal

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SooperKanoon Citation : sooperkanoon.com/1171734

Court : Delhi

Decided On : Nov-07-2014

Judge : Sunil Gaur

Appellant : Satyawan

Respondent : Dharam Pal

Advocate for Pet/Ap. : Mr. G.D. Sharma

Judgement :

\$~21 * IN THE HIGH COURT OF DELHI AT NEW DELHI Date of Decision:

7. h November, 2014 + RSA3222014 & C.M. Nos.18138-39/2014 SATYAWAN
Through: Appellant Mr. G.D. Sharma, Advocate versus DHARAM PAL
Respondent Through: Nemo. CORAM: HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

(Oral) Appellant is the plaintiff whose suit for recovery of possession of part of property No.AB-38/2, Amar Puri, Nabi Karim, Pahar Ganj, New Delhi, comprising ground floor, first floor, second floor and terrace floor with roof rights, as shown in the site plan in terms of Partition Deed of 30th August, 1999 was decreed by the trial court and vide impugned judgment of 27th August, 2014, the First Appellate Court has reversed the trial courts judgment and dismissed appellants suit while noting that the suit property is owned by mother of the parties, who is not a party to the aforesaid Partition deed. The opening paragraphs of the impugned

judgment notice the facts in this case and so, the factual background of this case is not reproduced RSA No.322/2014 Page 1 herein. At the hearing, it was contended by learned counsel for appellant that no issue of ownership of the suit property was there and so, the findings of the First Appellate Court on the ownership issue are perverse. It was contended by learned counsel for appellant that Partition Deed of 30th August, 1999 was not in question and the status of respondent was of licensee only and respondent had admitted signing of the aforesaid Partition Deed of 30th August, 1999 and so, the impugned judgment deserves to be set aside and trial court judgment ought to be restored. Upon hearing and on perusal of the impugned judgment, trial courts judgment and the material on record, I find that no doubt respondent had signed the aforesaid Partition Deed of 30th August, 1999 but the stand of respondent has been that he is illiterate and he had signed the Partition Deed of 30th August, 1999 without knowing its contents and that contents of aforesaid Partition Deed were not explained to him. It is pertinent to note that owner of the suit property is the mother of parties who has not signed the aforesaid Partition Deed of 30th August, 1999 (Ex. PW-1/3). During the course of hearing, it was brought to the notice of the Court that the mother of parties is alive but for reasons best known to appellant, no application for additional evidence has been filed along with this appeal to obtain deposition of mother of parties. In a suit for recovery of possession of property, the question of ownership of property is of prime importance and even if no specific issue is claimed, still a party who is trying to obtain possession of property is required to satisfy the court about the ownership of the property. RSA No.322/2014 Page 2 In view of the aforesaid, I find that there is no perversity in the findings returned by the First Appellate Court. No substantial question of law arises in this second appeal. Consequentially, this appeal and applications are dismissed with no order as to costs. (SUNIL GAUR) JUDGE NOVEMBER07 2014 r RSA No.322/2014 Page 3