SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Narender Kumar Sharma Vs. Ram Kumar Sharma

Narender Kumar Sharma Vs. Ram Kumar Sharma

SooperKanoon Citation : sooperkanoon.com/1171750

Court : Delhi

Decided On : Nov-05-2014

Judge : Sunil Gaur

Appellant : Narender Kumar Sharma

Respondent : Ram Kumar Sharma

Advocate for Def. : Mr. K.L. Bajaj

Advocate for Pet/Ap. : Mr. D.R.Jain, Mr. Neeraj Jain, Mr. Bhupesh Kumar

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI Date of Decision:

5. h November, 2014 + RSA3192014 NARENDER KUMAR SHARMA ..... Appellant Through: Mr. D.R.Jain, Mr. Neeraj Jain & Mr. Bhupesh Kumar, Advocates versus RAM KUMAR SHARMA Through: ..... Respondent Mr. K.L. Bajaj, Advocate CORAM: HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(Oral) Caveat No.965/2014 (u/S148A CPC) Respondent is represented through counsel. Caveat is discharged. RSA3192014 & C.M.No.18024/2014 (for stay) Respondents suit for possession of suit property stands decreed by Trial Court and is affirmed by the First Appellate Court. The concurrent findings returned by both the courts below are that the Will in question clearly demarcates the

respective portions of the parties. The factual matrix of this case already stands noted in the impugned judgment and needs no reproduction. At the hearing of this appeal, it was contended by learned counsel for appellant that the requisite court fee has not been paid by respondent RSA3192014 Page 1 and decree for possession of the suit property has been passed without seeking relief of partition of the suit property by metes and bounds. Upon hearing and on perusal of the impugned judgment and the material on record, I find that no issue of deficiency of court fee is claimed by appellant and so, in the second appeal, appellant is precluded from urging it. A copy of plaint on record clearly shows that the suit property has been clearly defined and alongwith the plaint, a site plan has been filed wherein the suit property has been shown in red shaded colour. Otherwise also, no issue relating to maintainability of the suit was claimed by appellant and so, appellant is precluded from raising it in this second appeal. In the considered opinion of this Court, no substantial question of law arises in this second appeal. Consequentially, this appeal and the application are dismissed with no order as to costs. The appeal and the application are accordingly disposed of. (SUNIL GAUR) JUDGE NOVEMBER05 2014 s RSA3192014 Page 2

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com