

Sunita vs.ramphal

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Court : Delhi

Decided On : Apr-19-2017

Appellant : Sunita

Respondent : Ramphal

Advocate for Pet/Ap. : Mr. R.P.S. Bhatti

Judgement :

IN THE HIGH COURT OF DELHI AT NEW DELHI RSA No.116/2017 & CM No.14694/2017 (exemption) and 14695/2017 (stay) * + % SUNITA19h April, 2017 Appellant Through: Mr. R.P.S. Bhatti, Advocate. versus Respondent RAMPHAL CORAM: HONBLE MR. JUSTICE VALMIKI J.MEHTA To be referred to the Reporter or not?. VALMIKI J.

MEHTA, J (ORAL) 1. This Regular Second Appeal under Section 100 of the Code of Civil Procedure, 1908 (CPC) is filed by the appellant/defendant no.1/daughter-in-law impugning the concurrent judgments of the courts below; of the Trial Court dated 3.9.2014 and the First Appellate Court dated 25.2.2017; by which the suit filed by the respondent/plaintiff/father-in-law for mandatory injunction to handover vacant physical possession of the suit property has been decreed. The suit property/premises is two rooms, kitchen, toilet and bathroom on the ground floor on the property bearing No.A-425, Ground Floor, 25 ft. road, Gali No.1, Meet Nagar, Delhi-110093 RSA No.116/2017 Page 1 of 4 2. The facts of the case are that the respondent/plaintiff is the owner of the suit property and he has proved

ownership of the same by means of the documents executed in his favour being the General Power of Attorney, Agreement to Sell, Receipt, Will etc and which were proved before the Trial Court as Ex.PW1/B (colly). Respondent/plaintiff/father-in-law pleaded that appellant/defendant no.1 is not having good relations with the respondent/plaintiff and the appellant/defendant no.1 has misbehaved with the respondent/plaintiff and even threatened to kill him. It is pleaded by the respondent/plaintiff that appellant/defendant no.1 is a lady of criminal nature who wants to illegally grab the suit property.

3. Before the trial court the appellant/defendant no.1 remained ex-parte. A written statement was only filed by the defendant no.2, the son of the respondent/plaintiff and husband of the appellant/defendant no.1, and who has not even been impleaded in this appeal. Defendant no.2 did not dispute the ownership of the suit property of the respondent/plaintiff/father, and which in any case was otherwise duly proved in terms of the documents Ex.PW1/B (colly).

4. Therefore, it is seen that on the one hand the respondent/plaintiff proved his case, and therefore, was entitled to the reliefs prayed, the appellant/defendant no.1 remained ex-parte and no RSA No.116/2017 Page 2 of 4 evidence has been led in the courts below on behalf of the appellant/defendant no.1 with respect to her legal entitlement to stay in the suit property.

5. Law in this regard is well established in view of the judgment of the Supreme Court in the case of S.R. Batra and Another Vs. Taruna Batra (Smt.) (2007) 3 SCC169 that a daughter-in-law has no right in the property of the father-in-law.

6. Learned counsel for the appellant/defendant no.1 argues that the defendant no.2/son was gifted the suit property by the respondent/plaintiff, and which is said to be admitted by the respondent/plaintiff as per his pleadings, however, it is noted that this argument is without substance because admittedly not only the gift deed was not filed, but also that the gift deed admittedly has not been registered, and once the gift deed is not registered, the same does not pass any title of the suit property from the respondent/plaintiff to the defendant no.2/son.

7. In view of the above discussion, no substantial question of law arises for this appeal to be entertained under Section 100 CPC. Dismissed. RSA No.116/2017 Page 3 of 4 8. In view of the facts of the present case, however the appellant/defendant no.1 is granted time till 31.12.2017 to vacate the suit premises subject to the appellant filing the usual undertaking in this Court within a period of two weeks to vacate the suit premises on or before 31.12.2017. APRIL19 2017/ib VALMIKI J.

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