

Delhi Development Authority vs.deepak

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Court : Delhi

Decided On : Dec-04-2017

Appellant : Delhi Development Authority

Respondent : Deepak

Judgement :

§~14 * IN THE HIGH COURT OF DELHI AT NEW DELHI DECIDED ON :

4. h DECEMBER, 2017 + RSA2142013 DELHI DEVELOPMENT AUTHORITY
Appellant DEEPAK Through : Mr.Nikhil Goel, Advocate with Mr.Aniruddha
Deshmukh, Advocate. Mr.Amit Singh, Advocate for GNCTD. versus
Respondent CORAM: HON'BLE MR. JUSTICE S.P.GARG Through : Mr.Virender
Ganda, Sr.Advocate with Mr.Vipul Ganda, Mr.Tarun Mehta & Ms.Shelly Khanna,
Advocates for applicant in CM1425516. S.P.GARG, J.

(Oral) CM142552016 [u/O I R102) CPC].

1. The application for impleadment in the present appeal has been preferred by Kanwar Singh and Kuldeep Singh. It is contested by the respondent / non-applicant.

2. Learned Senior Counsel for the applicants urged that applicants presence is necessary in the present proceedings to assist the Court to arrive at a just and proper conclusion. The proposed respondent No.2 is owner of a portion of land of khasra No.4/29 situated in the Revenue Estate of Village Sahipur; it is adjacent to

the RSA2142013 Page 1 of 4 encroached land forming part of khasra No.4/2 owned by the appellant in the said village. The respondent has encroached land admeasuring about 275 sq.yds. forming part of khasra No.4/2 and has raised illegal construction thereon. The construction does not have any proper sewage, drainage and garbage disposal system; it causes nuisance to the families of proposed respondents No.2 and 3. They face lot of inconvenience, they cant be deprived of their basic right to life with dignity. Various representations were made to the appellant to remove the encroachment and demolish the unauthorized / illegal construction. By a writ petition W.P.(C) 115 disposed on 14.12.2015, the appellant was directed to consider the applicants representation within a period of eight weeks. The DDA after considering the submissions informed that the present Regular Second Appeal was pending before this Court. Thereafter, this application was filed.

3. Learned Senior Counsel urged that from the demarcation of khasra No.4/29 by Tehsildar in the year 2004 and also from the Khatauni documents, it is evident that house No.71, 72, 73 and 74 belong to late Raghbir Singh, Harikishan, Sultan Singh and Yad Ram in khasra No.4/29. Therefore, the encroached land (adjacent to house No.74) is an additional piece of land of khasra No.4/2 admeasuring about 275 sq.yds. owned by the appellant and cannot be a part of khasra No.4/29 as claimed. The applicant being owner of house No.74 is affected by the present appeal and the orders passed by this Court. Relying upon Maria Margarida Sequeria Fernandes & Ors. vs. Erasmo Jack de Sequeria (Dead) through LRs counsel RSA2142013 Page 2 of 4 emphasized that applicants presence is needed to assist the Court to arrive at a just conclusion.

4. It is a matter of record that instant suit 132/2012 was filed by the respondent against DDA on 06.10.2004 for permanent injunction to restrain it from demolishing / dispossessing or interfering in the suit premises within the boundary in respect of khasra No.4/29 Village Sahipur, Delhi. The said suit was contested by DDA. By a judgment dated 19.11.2012, the suit was dismissed by the Trial Court. The respondent Deepak challenged the said order in RCA No.102/2012. By an order dated 18.03.2013, the learned Addl. District Judge allowed the appeal, set aside the impugned judgment and decree and decreed the suit of the plaintiff

passing the restraint order. Aggrieved by the said order, DDA has filed the instant Regular Second Appeal. It is pertinent to note that during the proceedings before the Trial Court and the First Appellate Court, the applicants did not opt to be impleaded as parties. No relief was claimed by the respondent against the applicants in the suit. The applicants being neighbours were well aware as to who was in possession of the suit land. Admittedly, the respondent is in possession of the suit land since long and has raised construction of number of units. Documents on record reveal that various permissions have been taken by the respondent for installing electricity and water connection in the suit land. At no stage prior to filing of the writ petition, the applicants objected to the alleged encroachment. They did not file any suit to avail legal remedies for redressal of the grievances raised by them in the present application. RSA2142013 Page 3 of 4 5. The aggrieved party i.e. DDA has already filed the instant appeal to challenge the legality and correctness of the judgment of the First Appellate Court which is pending disposal. Presence of the applicants is not at all required for adjudication of any dispute between the parties. Their presence in the proceedings in the second appeal would serve no purpose as the dispute is between the appellant and the respondent over the suit land, in which the applicants do not claim any right, title or interest.

6. The application for impleadment is unmerited and is dismissed. RSA2142013 1.

2. Pleadings are complete. For final disposal, list on 14th March, 2018.
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