

Chanchal Devi vs.delhi Development Authority

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Court : Delhi

Decided On : Feb-14-2019

Appellant : Chanchal Devi

Respondent : Delhi Development Authority

Judgement :

\$~R.P.-1 & 2 IN THE HIGH COURT OF DELHI AT NEW DELHI RSA1212018
CHANCHAL DEVI Appellant Through: Mr. Ashok Joshi & Mr. R.K.Sonkiya,
Advs. * + DELHI DEVELOPMENT AUTHORITY Through: None. Versus +
RSA1222018 PHOOL SINGH YADAV AND Respondent Appellant
Through: Mr. Ashok Joshi & Mr. R.K.Sonkiya, Advs. Versus DELHI
DEVELOPMNET AUTHORITY CORAM: HON'BLE MR. JUSTICE RAJIV SAHAI
ENDLAW %

ORDER

1402.2019 Through: None. Respondent R.P.No.442/2018 & CM
No.52030/2018(for condonation of delay of 44 days in applying thereof) in
RSA1212018 & R.P.No.427/2018 & CM No.50155/2018(for condonation of delay
of 44 days in applying thereof) in RSA1222018 Review, along with condonation of
delay of 44 days in applying 1. therefor, is sought of the common judgment dated
28th August, 2018 dismissing in limine the second appeals preferred by each of
the review applicants, holding the same to be not raising any substantial question
of law. RSA1212018 & RSA1222018 Page 1 of 3 2. Counsel for the Review

... Petitioner

s has referred to Rame Gowda Vs. M. Varadappa Naidu (2004) 1 SCC769 a judgment of a three Judge Bench of the Supreme Court, holding inter alia, that a trespasser in settled possession cannot be dispossessed by use of excessive force, and contends that Anathula Sudhakar Vs. P. Buchi Reddy 2008 (4) SCC594 referred to in the judgment of which review is sought, is a judgment of a two Judge Bench and contends that it is the settled position in law that a judgment of a three Judge Bench will prevail over the judgment of a two Judge Bench.

3. Admittedly Rame Gowda supra was not referred to by counsel for the Review

... Petitioner

s during the hearing on 28th August, 2018. In fact, review is sought, not by the same Advocate who had appeared on 28th August, 2018, but by engaging a new Advocate.

4. The power of review cannot be invoked as an opportunity to re-argue, after the Advocate earlier engaged is found to have failed to deliver. If the same were to be permitted, with no dearth of Advocates, successive review petitions will be filed, with each successive Advocate claiming to make out an argument better than the earlier one.

5. 6. For this purpose alone review cannot be entertained. Be that as it may, the judgment of dismissal of which review is sought, is a judgment in a Regular Second Appeal, governed by the provisions of Section 100 of the CPC and as per which, the same is not to be entertained unless entailing a substantial question of law. What prevailed for dismissal of the second appeals was, that the appeals did not raise any substantial question of law. Merely because of Rame Gowda supra, it RSA1212018 & RSA1222018 Page 2 of 3 cannot be said that any substantial question of law arises. To be fair to the counsel for the Review

... Petitioner

s, he has also not argued so.

7. Moreover, Rame Gowda supra was a case between two private parties and the injunction sought in the suits from which the subject second appeals arose, was

against a public authority entrusted with development of the city of Delhi. Any encroachment over land belonging to such public authority as the DDA, is in interference in the developmental projects/works of the DDA and which again are for public benefit. A few individuals cannot hold up the said projects at the cost of thousands of others. Thus, the parameters on which the lis has to be decided are also entirely different from Rame Gowda supra.

8. No ground for review is made out. Dismissed. FEBRUARY14 2019 ak RSA1212018 & RSA1222018 RAJIV SAHAI ENDLAW, J Page 3 of 3

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