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D. Mehra Vs. Ravi Bhargava

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Court : Delhi

Decided On : Aug-25-2000

Reported in : 2000VIIAD(Delhi)1143

Judge : B.A. Khan, J.

Appeal No. : C.R. 945/98

Appellant : D. Mehra

Respondent : Ravi Bhargava

Advocate for Def. : Mr. Rajat Aneja, Adv.

Advocate for Pet/Ap. : Mr. S.N. Choudhri, Adv

Judgement :
ORDER

Khan, J.

1. Parties are fighting it out for one car parking which is claimed by both.

2. Petitioner, owner of plot No. A 277 situate at Shivalik entered into a collaboration agreement dated 13.4.1992 with a builder whereby she was to remain the sole owner of ground floor, basement floor, terrace rights of first floor and one covered parking Along with proportionate share in land underneath. The

builder was to retain first floor and one car parking Along with interest in the land underneath.

3. It appears that builder sold his share to respondent and executed an agreement to sell dated 15.1.1993. After allegedly living amicably for some time, respondent filed Suit No. 26/96 for permanent injunction for restraining petitioner from disconnecting his water supply and from obstructing his car parking in the parking area below front bed room of ground floor. He also applied for adinterim injunction but trial court ordered status quo to be maintained till further orders by order dated 27.7.1996.

4. Respondent took an appeal against this order and appellate court reversed it by holding that one covered car parking below bed room on ground floor exclusively belonged to respondent and that petitioner should not obstruct his parking thereon or park the vehicle behind his car.

5. Petitioner has filed this revision petition assailing this order. She claims that she was 76 years old and so was her husband. Both were retired Central Government employees having disabled son who was using the disputed car parking. It is submitted by her that collaboration agreement between her and the builder stipulated two car parkings, besides a garage which was clear from the terms from Clauses 8,9 and 10 of the collaboration agreement. She also claims that Local Commissioner appointed by the trial court had found two cars parked at disputed parking place which supported her plea that she was all along using the covered car parking till appellate court restrained her from doing so.

6. It is unfortunate that parties instead of living in harmony should involve themselves in a long drawn litigation over a petty matter. That apart I find that appellate court had as good as decreed the suit of respondent qua the covered parking by passing the impugned order which ought to have been avoided at the interim stage. The court had relied upon Clauses 9 and 10 of the collaboration agreement but had left clause 8 which talks of a covered car parking going to the share of petitioner out of consideration and as against which clause 10 dealt with the garage space behind ground floor balcony. In any case interpretation of these clauses was subject matter of the suit before the trial court and appellate court

should not have drawn final conclusions on the basis of these which could prejudice the merit of petitioner's claim at trial. As against this trial court had ordered maintenance of status quo on the site which was an appropriate arrangement pending determination of rival claims of the parties.

7. For all this it becomes difficult to sustain impugned order dated 15.9.1998 passed in MCA 297/96 which is set aside and order passed by trial court dated 15.9.98 is restored and reaffirmed. Parties are directed to maintain status quo on spot as it existed on the date of respondent's suit.

Revision petition is accordingly disposed of.

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