

Jagdish Raj Vs. Narinder Kumar

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Court : Delhi

Decided On : May-06-1987

Reported in : 1987(13)DRJ288

Judge : N.N. Goswamy, J.

Acts : [Code of Civil Procedure \(CPC\), 1908](#) - Sections 115

Appeal No. : Civil Revision Appeal No. 391 of 1983

Appellant : Jagdish Raj

Respondent : Narinder Kumar

Advocate for Pet/Ap. : S.L. Aneja and; H.D. Aneja, Advs

Judgement :

N.N. Goswamy, J.

(1) This revision petition by the defendant is directed against the order dated 22-3-1983 passed by the learned Additional District Judge, Delhi whereby the appeal of the plaintiff against the dismissal of his application under Order 39 of the Code of Civil Procedure was allowed.

(2) The parties to this petition are real brothers. The petitioner is the elder brother while the respondent-plaintiff is younger brother. The plaintiff filed a suit for

permanent injunction restraining the defendant- petitioner from interfering in the business of the tea shop being carried on in premises bearing No. 17, Central Market, Lajpat Nagar, New Delhi. It was pleaded that the plaintiff was the sole owner of the said business and the defendant had nothing to do with the same. Along with the suit, respondent- plaintiff also filed an application under Order 39 for a similar ad-interim injunction. The application was dismissed by the learned trial Judge but in appeal it was held that the plaintiff had shown a prima facie case in his favor and consequently was entitled to the ad-interim injunction. The learned Additional District Judge relied on various documents including the registration certificate of the business and the income-tax returns and income-tax orders filed by the plaintiff. All these documents described the plaintiff to be the sole owner of the business.

(3) I have been taken through the various documents on record and I have also heard the learned counsel for the parties. I am of the considered opinion that the Additional District Judge has exercised the discretion in a judicial manner and no error can be found with the same. It is not necessary for me to record my findings which may prejudice either party. In this situation, I refrain from recording any findings on merits. However, it cannot be disputed that the plaintiff has made out a prima facie case and is entitled to the injunction prayed for. In the circumstances, the revision petition is dismissed and the parties are left to bear their own costs.