

Arun Kumar Sharma Vs. Ram Phool Singh and ors.

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Court : Delhi

Decided On : Mar-30-1992

Reported in : II(1992)BC38; 47(1992)DLT65

Judge : J.K. Mehra, J.

Acts : [Code of Civil Procedure \(CPC\), 1908](#) - Order 37, Rule 3

Appeal No. : Civil Revision Appeal Nos. 703, 838 and 839 of 1991

Appellant : Arun Kumar Sharma

Respondent : Ram Phool Singh and ors.

Advocate for Pet/Ap. : Suresh Gupta,; Arjun Bhandari and; Sanjay Sharma, Advs

Judgement :

J.K. Mehra, J.

(1) ADMIT.

(2) By this judgment I will dispose of three Civil Revision Nos. 703,838 and 839 of 1991 since common question arises in these petitions.

(3) The case of the petitioner is that the promissory notes as well as receipts were issued without consideration and were given in blank to one Chander Shekhar who had agreed to get the premises vacated from the tenants of the petitioner and

the amount was to be collected by Chander Shekhar but was ultimately to be paid to the tenants on the premises being vacated. The petitioner further states that in the meantime the petitioner got the premises aviated by entering into appropriate deals with the tenants directly. In the circumstances, there was no occasion to make the payments to the said tenants through Chander Shekhar. The receipts as well as promissory notes were issued according to the petitioner in blank and when the deal did not go through the said Shri Chander Shekhar he put up the names of seven parties to institute 7 suits against the petitioner. Three of them are covered by the present petitions being disposed of today.

(4) On the other hand, the respondent's case is that the promissory notes were issued in consideration of the each respondent having paid to the petitioner a sum of Rs. 10,000.00 for forming a group housing co-operativesociety. The money was accepted in cash. There is no information supplied on the record as to wherefrom this amount was paid by the respondents. Further in case it was paid towards membership fee or for the said fee and other expenses there could not have been an occasion for giving a promissorynote. Only a receipt for the amount would have been given.

(5) I have not been shown any document to substantiate the allegation of the formation of the co-operative society or any other paper which might have preceded the payment.

(6) The perusal of the pleas of the defendants raised in the application for leave to defend does go to raise triable issue. The concern of the trial Court to safeguard the interest of the respondents/plaintiffs is undertandable, but, in my opinion, the Court should not have imposed a condition of bank guarantee because normally it places serious strain on the resources of any party which is called upon to furnish the bank guarantee, particularly, when the petitioner, who is a government employee and is not having a running business With banking facilities. In these circumstances, I allow the petition only to the extent that the petitioner can offer the security by creating a charge on his property. No. 305 Prakash Gali. Teliwara, Sadar Bazar, Delhi-6 to cover the claim in all the suits in respect whereof the present civil revisions have been filed.

(7) I feel, it would have been appropriate if all the 7 suits could be tried by the same Judge to prevent any conflict of decisions or proliferation of litigation between the parties. However, it is something for the petitioner to look into and take appropriate steps to move the Court for the purpose.

(8) The present revision petitions stand disposed of in the above terms with no order as to costs. The needful regarding furnishing of security be done by the petitioner before the trial Court within one month from today.

(9) Parties are directed to appear before the trial Court on 20/04/1992. Petitions disposed of.