

Kanwarjit Singh Arora Vs. Gurdeep Singh Arora

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Court : Delhi

Decided On : Apr-11-2001

Reported in : 2001VAD(Delhi)934; 92(2001)DLT344; 2001(59)DRJ63

Judge : Mr. Manmohan Sarin, J.

Appeal No. : CW. No. 6592 & CM, 12617/1999

Appellant : Kanwarjit Singh Arora

Respondent : Gurdeep Singh Arora

Advocate for Def. : Ms. Anjana Gosain, Adv.

Advocate for Pet/Ap. : Mr. R.P. Sharma, Adv

Judgement :

ORDER

Manmohan Sarin, J

Rule.

1. With the consent of the parties writ petition is taken up for disposal.
2. Learned counsel for the petitioner submits that the sanctioned plain was for additions/alterations. Learned counsel is aggrieved by the following finding by the learned Additional District Judge:

'From the site plan filed by the appellant, it is also clear that even some portion of the old existing portion was demolished, the basement was also constructed even if a small portion was not demolished for any reason, it could not make out a case of additions and alterations.'

3. Learned counsel for the petitioner submits that since the plan approved was for additions/alterations, it cannot be treated as a case of rebuilding or new construction. Learned counsel for the respondent refutes these submissions by saying that even as per the property tax return filed by the petitioner, the property had been rebuilt in the year 1989-90. It is also the respondent's case in the impugned order determining the rateable value that there was demolition of the building and it was a case of reconstruction. The case has been remanded to the Assessing Authorities for fresh assessment by the Additional District Judge in the light of the observations given in the order dated 6.5.1999.

4. Learned counsel for the petitioner during the course of arguments attempted to urge that even if factually only a small portion of the building or the premises is left say a study or a room and rest is demolished and rebuilt, it should still be treated as a case of additions/alterations if the plan sanctioned was one for alterations/additions. Learned counsel for the petitioner has not been able to point of any deeming provision of law or authority in support of this proposition.

5. In my view, the submission of the petitioner that once the plan is sanctioned for additions/alterations, even though factually it may entail the demolition of the entire or substantial portion of the building and its reconstruction, it has still to be treated as a case of additions/alterations because the approved plan was for addition/alteration cannot be accepted.

At this stage, learned counsel for the petitioner submits that in the instant case, it was factually a case of additions/alterations. Let the Assessing Authority examine the contention of the petitioner and reach a conclusion as to whether it was a case of mere additions/alterations or a case of reconstruction.

6. The writ petition stands disposed of.