

Texla Service Centre Vs. Raseel Kohli

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SooperKanoon Citation : sooperkanoon.com/695708

Court : Delhi

Decided On : Aug-08-2000

Reported in : 2000(56)DRJ477

Judge : Vikramajit Sen, J.

Appeal No. : I.A. No. 8692/92 in S. No. 182/86

Appellant : Texla Service Centre

Respondent : Raseel Kohli

Advocate for Def. : Mr. Mahinder Rana, Adv.

Advocate for Pet/Ap. : Mr. J. Lal, Adv

Judgement :

ORDER

Vikramajit Sen, J.

1. This is an application filed by Smt. Pamela Manmohan Singh, legal representative of late Smt. Raseel Kohli, who was the Defendant in the suit, The suit is for the Specific Performance of an Agreement to Sell dated 13.8.1984 in respect of property bearing No. B-6, Jangpura, Mathura Road, New Delhi. The application incorrectly states that the suit was dismissed for non-prosecution vide Orders dated 1.9.1989. Infact, on that date, the suit was withdrawn by leave of the

Court. After an inordinate and unexplained lapse of over two and a half years, the present application has been filed seeking a declaration that the three Sale Deeds dated 6.12.1988 allegedly executed by late Major K.V. Kohli, brother of the Applicant, stand annulled, cancelled and declared null and void. It has also been pleaded that the Applicant has already filed a suit, being Suit No. 695/90, for Declaration that the Sale Deeds do not confer any title and are invalidated, null and void.

2. Having heard learned counsel for the parties, I am convinced that the application is misconceived, untenable in law and calls to be dismissed. Firstly it is barred by laches. A party seeking relief must approach the Court diligently and expeditiously. Failure to do so would disentitle the grant of the relief sought. Secondly an application in a suit already dismissed is not maintainable. It is a mute point whether the Defendant could have sought the restoration of a suit itself. The Applicant in the preset case has not prayed for any such relief. It has independently sought a Declaration in legal proceedings which have already come to an end. This is impermissible. Thirdly, the application appears to be vexatious for the reason that the Applicant has already initiated substantive proceedings, being Suit No. 695/90, seeking an identical declaration. In the course of trial of that suit the question whether Section 52 of the Transfer of Property Act barred the execution of the alleged three Sale Deeds would be one of the questions which would have to be decided. In the view taken by me above, this argument need not engage further attention and time here.

3. Reliance by learned counsel for the Applicant on the decisions in Executive Officer, Arthanareswarar Temple Vs . R. Sathyamoorthy and Others, : [1999]1SCR485 and M. Kishore Kumar v. Mohd. Akbar Siddiqui and Others AIR 1994 NOC 194 is misconceived.

4. For these reasons the application is dismissed, with costs of Rs.3000/-.