

Rohit Kumar and anr. Vs. Dalip Kumar Jain

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Court : Delhi

Decided On : May-25-2000

Reported in : 2000VAD(Delhi)487

Judge : Mukul Mudgal, J.

Appeal No. : Suit No. 2577/98

Appellant : Rohit Kumar and anr.

Respondent : Dalip Kumar Jain

Advocate for Pet/Ap. : Mr. Kamlesh Kumar, Adv

Judgement :

ORDER

Mukul Mudgal, J.

1. This is a suit on behalf of the plaintiffs, seeking for passing a decree of possession with regard to the property bearing No. 16, situated at First Floor in Desh Bandhu Gupta Market, Karol Bagh, New Delhi, consisting of four rooms.

2. It is submitted on behalf of the plaintiffs that on 2.12.1996 the defendant executed a receipt acknowledging the sum of Rs. 1,50,000/- towards the sale consideration as also other documents which included a General Power of Attorney and a Special Power of Attorney since the defendant was desirous of

selling the property.

3. It is the plaintiffs' case that it was agreed between the plaintiffs and the defendant that after receipt of the payment and also after the execution of various documents the defendant will hand over the peaceful vacant possession of the aforesaid property. It is further the plaintiff's case that after receiving the payment and executing the various documents, the defendant contracted various other property dealers for disposing of the property at a higher value.

4. It is averred on behalf of the plaintiffs in the plaint that on 19.4.1997 when they went to the spot in order to get possession of the said property the defendant bluntly refused to handover the possession to the plaintiffs despite the fact that the plaintiffs tried their level best to persuade the defendant to hand over the possession of the property.

5. It is the plaintiffs' case that the defendant has no right whatsoever for keeping the possession of the property with him as he has already executed lot of documents in favor of the plaintiff and accepted the sale consideration and is, therefore, duty bound in law to hand over the property situated at First Floor, Desh Bandhu Gupta Road, Karol Bagh, New Delhi.

6. The defendant failed to appear in the matter despite service by way of publication and affixation at his last address. The defendant was proceeded ex-parte as per the Court's Order dated 13.9.1999. Thereafter the evidence by way of affidavit has been filed on behalf of the plaintiff No.1. The averments made in the plaint have been supported by the aforesaid affidavit. The plaintiffs have also proved the following documents:

Sl. Description

No.

1. Receipt dated 2.12.1996 2. General Power of Attorney dated 6.12.96 3. Special Power of Attorney dated 6.12.96 4. Death Report dated 15.7.97 5. G.P.A. at Pages 34-36 of the paper-book 6. Affidavit dated 2.12.98 7. Allotment order dt. 4.6.56 8. Letter dated 14.9.1979 9. List of LR's. at Pages 42-43 of the paper-book

10. Statement No.31137 11. S.P.A. dated 6.12.98 12. Will of Ms. Neelam Jain dated 2.12.1996 13. Will of Ms. Saroj Bala dated 2.12.1996 There is no rebuttal of these pleas.

7. Accordingly, the plaintiff is entitled to a decree with costs. The suit is decreed as prayed. A decree of possession is passed in favor of the plaintiffs and against the defendant with costs with regard to the property bearing No.1, comprising of four room set, (first floor) situated at Desh Bandhu Gupta Market, Karol Bagh, New Delhi (as shown red in the site plan).

Decree sheet be drawn up accordingly.

8. The suit is thus disposed of accordingly.

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