

**Budh Ram Vs. Delhi Development Authority**

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**SooperKanoon Citation :** [sooperkanoon.com/699708](http://sooperkanoon.com/699708)

**Court :** Delhi

**Decided On :** Apr-30-1992

**Reported in :** 1992(23)DRJ289

**Judge :** P.N. Nag, J.

**Acts :** [Code of Civil Procedure \(CPC\), 1908](#) - Sections 151

**Appeal No. :** Civil Revision Appeal No. 51 of 1989

**Appellant :** Budh Ram

**Respondent :** Delhi Development Authority

**Advocate for Pet/Ap. :** P.K. Ahuja, Adv

**Judgement :**

**P.N. Nag, J.**

(1) This revision petition has been filed against the order dated 12.10.1988 passed by Shri A.S. Yadav, Sub Judge First Class, Delhi.

(2) Brief relevant facts giving rise to this revision petition are that the petitioner filed a suit restraining the defendants from demolishing the three rooms in the premise's bearing Municipal No. D-15 (now known as D-40), Acharya Niketan, Patparganj, Delhi-110051 by passing a decree for permanent injunction in favor of

the plaintiff and against the defendant and the demolition order dated 6.5.1987 issued by the defendant may be declared null, void and illegal by passing a decree for declaration in favor of the plaintiff and against the defendant. In the said suit, the plaintiff filed an application under Section 151 of the Code of Civil Procedure seeking decreeing the suit on the ground that the property in question has been transferred to the M.C.D. and hence D.D.A. has no jurisdiction over the suit properties. The trial court dismissed the application on the ground that the subsequent transfer of the area is immaterial and the suit could not be decreed simply because the area was alleged to have been transferred to the M.C.D. Against this order, the petitioner-plaintiff has preferred this revision petition.

(3) There is no jurisdictional error and therefore the revision petition is dismissed in limine.

(4) However, in the interest of justice, the fact remains that in case the land is transferred to the M.C.D. by the D.D.A., as alleged, then prima facie it appears that the order of demolition passed by D.D.A. cannot be executed against the plaintiff. However, these observations which I am making are tentative and require consideration. The petitioner-plaintiff is at liberty to move the trial court for temporary injunction seeking restraint against the D.D.A from demolishing the property in dispute and in case such an application is filed within two weeks from today, the same will be decided by the trial court on merits expeditiously, preferably within one month thereafter and till the disposal of that application for temporary injunction I direct that the property in dispute be not demolished by the D.D.A.

(5) A copy of this order be given duly to counsel for the petitioner.