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Laxman Ram Vs. Kishana Ram

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Court : Rajasthan

Decided On : Dec-18-2006

Reported in : AIR2007Raj84

Judge : N.P. Gupta, J.

Appellant : Laxman Ram

Respondent : Kishana Ram

Disposition : Appeal dismissed

Judgement :
ORDER

N.P. Gupta, J.

1. Heard learned Counsel for the appellant.

2. The submissions made by the learned Counsel is that in the agreement there is stipulation about refund, of Rs. 32,000/- in the event of the defendant defaulting to perform the agreement and therefore, on the face of stipulation the decree for specific performance could not be passed.

3. It was also contended that in para 2 of the plaint, the plaintiff had misquoted the agreement by alleging that there was a stipulation to the effect that in the event of default the plaintiff would be entitled to have the agreement enforced by the Court

while there is no such stipulation of the agreement.

4. I have considered the submission and have gone through the record.

5. True it is, that in the agreement there is no such recital, that in the event of default by the defendant, the plaintiff would be entitled to have the agreement enforced through Court and there is stipulation of refund of Rs. 32,000/- however, in my view, in view of the judgment of the Hon'ble Supreme Court in Motilal Jain v. Smt. RamdasiDevi reported in : AIR 2000 SC2408 ; Manzoor Ahmed Margray v. Gulam HassanAram reported in : AIR 2000 SC191 ; K. Narendra v. Riviera Apartments (P)Ltd. reported in : [1999]3SCR777 as well as of this Court in Smt. Shakuntla Devi v.Mohanlal Amrit Raj Jain Market, Pali reported in , the mere fact that such stipulation is there, it does not by itself disentitle the plaintiff to the decree for specific performance.

6. I thus do not find any force in the appeal. The same is, therefore, dismissed summarily.

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