

Vasdev Saran (Decd.) and ors. Vs. Chander Wati Devi

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Court : Delhi

Decided On : Feb-14-2013

Judge : V.K.Shali

Appellant : Vasdev Saran (Decd.) and ors.

Respondent : Chander Wati Devi

Advocate for Def. : Mr. Prag Chawla

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + R.S.A. NO.157/2001 Date of Decision :

14. 2.2013 VASDEV SARAN (DECD.) & ORS. Appellants Through: Mr.Udit Gupta for Mr.B.C.Pandey, Adv. Versus CHANDER WATI DEVI Through: Respondent Mr. Prag Chawla, Adv. CORAM: HONBLE MR. JUSTICE V.K. SHALI V.K. SHALI, J.

(ORAL) 1. This is a regular second appeal which was withdrawn and this fact is recorded in the order dated 12.5.2009.

2. CM no.468/2002, is an application for cross objections filed by the respondent and the same was pending.

3. My learned Predecessor had framed a substantial question of law on 20.3.2012 which reads as under:Whether the finding of the learned sub-Judge, Delhi and learned lower appellate court in holding the deceased Vas Dev Saran, being

represented through LRs a tenant of suit property is perverse? 4. Thereafter, no sincere effort was made by the learned counsel for the respondent/objector to address the Court on this substantial question of law.

5. Today Mr.Chawla, learned counsel for the respondent has stated that the respondent /objector had sold the suit property to some third party. He was asked to inform about the date on which the interest in the suit property was transferred in favour of the third party, whereupon he sought a pass over in the forenoon. It is already 3.45 pm, he has not responded despite three calls in the afternoon. Accordingly, order is passed.

6. Since there is a categorical statement made by Mr.Chawla, learned counsel for the respondent that the interest in the suit property has been transferred in favour of third party, Order 22 Rule 10 CPC comes into operation, which reads as under:10. Procedure in case of assignment before final order in suit. (1) In other cases of an assignment, creation or devolution of any interest during the pendency of a suit, the suit may, by leave of the Court, be continued by or against the person to or upon whom such interest has come or devolved.

7. There is no application filed on behalf of the person on whom the interest in respect of the suit property has been assigned, created or devolved nor is the date given as to when the said interest has been created.

8. Accordingly, in my considered opinion, the present cross objections have to be dismissed in default.

9. File be consigned to the record room. V.K. SHALI, J.

February 14, 2013 RN

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