
(2018) 07 DEL CK 0256
In the Delhi High Court
Case No : RFA No. 239 OF 2018

Devender Kumar Sethi

APPELLANT

Vs

Sumitra

RESPONDENT

Date of Decision : 18-07-2018

Acts Referred:

Code Of Civil Procedure, 1908 — Section 96, Order 1 Rule 10

Citation : (2018) 07 DEL CK 0256

Hon'ble Judges : VALMIKI J. MEHTA, J

Bench : Single Bench

Judgement

VALMIKI J. MEHTA, J.

CM No. 28013/2018 (U/o 1 Rule 10 CPC)

1. This Regular First Appeal under Section 96 of the Code civil Procedure (CPC) was disposed of in terms of the consent Order dated 9.3.2018, and

which order reads as under:-

1. After arguments, this appeal is disposed of as not pressed but as prayed appellant is granted time to vacate the suit premises on or before

15.8.2018. Appellant will clear all charges payable towards electricity, water, etc. for the suit premises till the appellant stays in possession of the

suit premises. It is made clear that this Court has not varied the money decree passed against the appellant and respondent always in accordance

with law is at liberty to execute the money decree.

2. Let the appellant file an affidavit of undertaking in this Court in terms of the present order within one week and on the appellant filing the

undertaking and complying with the terms of the same, appellant is granted time to vacate the suit premises on or before 15.8.2018.

3. The appeal is disposed of accordingly.Â??Â

2. The Regular First Appeal was filed by the defendant in the suit impugning the Judgment of the Trial Court dated 14.10.2017 by which the trial court

decreed the suit for possession and mesne profits filed by the respondent/plaintiff.Â The impugned judgment shows that respondent/plaintiff proved

her ownership by means of documentation of the year 1992 and that thereafter even the conveyance deed was executed in favour of the

respondent/plaintiff by the DDA.

3. Though the appellant/defendant claimed that it was his elder brother who has purchased the suit property from the erstwhile owner Sh. Om

Parkash Gupta, however not a single document was filed by the appellant/defendant to prove such a case before the trial court. In fact, an earlier

eviction petition before the Additional Rent Controller under the Delhi Rent Control Act, 1958 filed by the appellant/defendant claiming tenancy rights

was also dismissed. The appellant/defendant also had additionally pleaded ownership by adverse possession, but this case was also rejected.

4. When this appeal came up for hearing on 9.3.2018, finding no case, the appellant/defendant therefore withdrew the appeal, but took time to vacate

by 15.8.2018, a date which is coming up in the next few weeks.

5. Now obviously, in July 2018, suddenly the applicant has sprung up from nowhere by filing this application under Order I Rule 10 CPC pleading that

he was living in the suit property and allegedly that the appellant/defendant has colluded with respondent/plaintiff in making the statement on 9.3.2018

to vacate by 15.8.2018.Â In the application, the sole claim for the applicant to continue in the property is that Sh. Davender Kumar Sethi/appellant in

the appeal, had claimed himself to be the owner of the property, and the applicant had paid rent to the appellant/defendant, and who is the brother of

the applicant.

6. This application is a gross abuse of the process of law as no application can be filed in an appeal when the applicant was neither a party to the suit

nor was a party to the appeal. Obviously, the applicant most probably is in collusion with the appellant/defendant, so that the time taken for vacating

the premises on 15.8.2018 is not accepted and suit premises would not be vacated for possession handed over to the respondent/plaintiff.Â Firstly, the

applicant has no locus standi to move the present application in this appeal since

he was neither a party to the suit nor a party to the appeal.

Secondly, the application is completely frivolous because application proceeds on the averments that the appellant/defendant in this appeal was the

owner and who took rent from the applicant, but not a single document has been filed to show as to how the appellant/defendant was the owner and

from whom the applicant took the suit property on rent. In any case, this issue has already been decided by the trial court in favour of the respondent

herein and against the appellant of this appeal, defendant in the suit, that the appellant/defendant was not the owner of the suit property but it was the

respondent/plaintiff who was the owner of the suit property. Once the appellant/defendant was never the owner, the applicant could not have taken

premises on rent from the appellant/defendant.

7. It is high time that dishonest and mischievous litigants are very strongly dealt with by courts because courts are overburdened by huge pendency of

cases and because dishonest litigants such as the present applicant, courts have to spend unnecessary judicial time on frivolous and dishonest

applications. This application therefore being an abuse of the process of law is dismissed with costs of Rs.50,000/-. Costs of Rs.50,000/- will be paid

by the applicant to Help Age India, C-14, Qutab Institutional Area, New Delhi-110016 within a period of six weeks and receipt be filed within one

week thereafter. In case, applicant does not file receipt within seven weeks from today, Registry will list the matter in Court for taking appropriate

action against the applicant.