

(2008) 09 DEL CK 0129

In the Delhi High Court

Case No : Regular First Appeal 178 of 2007

Nanak Chand

APPELLANT

Vs

Krishan Lal

RESPONDENT

Date of Decision : 04-09-2008

Acts Referred:

Citation : (2008) 09 DEL CK 0129

Hon'ble Judges : Sunil Gaur, J;Pradeep Nandrajog, J

Bench : Division Bench

Advocate : B.V.K. Ahluwalia, for the Appellant; N.P. Singh, for the Respondent

Final Decision : Dismissed

Judgement

Pradeep Nandrajog, J.—Admit.

2. Learned Counsel for the parties states that the appeal may be heard for disposal today itself.

3. For the reasons noted hereunder, we fail to understand the arguments in the appeal.

4. Late Shri Mannu Ram and his wife late Smt. Lilawati are no longer in the world of living.

5. The property bearing municipal No. C-379, Dr. Ambedkar Nagar, New Delhi came into litigation. Shri Mannu Ram and Smt Lilawati were survived by 4 sons and 1 daughter.

6. A dispute arose qua the partition of the property. The dispute between the children was whether Mannu Ram was the owner or Smt. Lilawati was the owner. Little did they realized that both parents being dead, the property would in any case be inherited by the children and hence it did not matter whether Lilawati was the owner or Mannu Ram was the owner of the house.

7. It may be noted that neither sibling predicted a claim under any will.

8. Krishan Lal a sibling i.e. 1 of the 4 sons born to Mannu Ram and his wife Lilawati filed a suit for partition. He said that he had 1/5th share in the property. He stated that his other brothers and sisters as also wife and children of his predeceased brother had 1/5th share in the property.
9. The appellant took up a defence that in 1988 an oral family settlement was arrived at where under Mannu Ram gave 30,000/- towards share of the suit property to Krishan Lal.
10. Admittedly, Mannu Ram died in October, 1987. Therefore, learned trial Judge has, in our opinion, rightly held that where was the question of Mannu Ram paying Rs. 30,000/- to the plaintiff in the year 1988 pursuant to an oral family settlement.
11. No evidence was led, whether documentary or by way of conduct of the parties to show that a family settlement as alleged was ever arrived at.
12. Learned trial Judge has accordingly passed a preliminary decree holding that all the children of late Mannu Ram and his wife Smt. Lilawati have 1/5th share in the suit property. The share of the deceased son has been held to be that of the wife and the children of deceased son.
13. In appeal, it is urged that a family settlement was arrived at in 1988. But one being questioned as to where is the evidence to sustain the said plea, learned Counsel for the appellant fairly conceded that there is none.
14. In that view of the matter, we dismiss the appeal.
15. Noting that the parties come from a very humble social economic background, we refrain from imposing any costs.