

* **HIGH COURT OF DELHI AT NEW DELHI**

+ **RSA 153/2008 & CM No.9749/2008**

Date of decision : September 14, 2009

YAD RAM Appellant
Through : Ms. Seema Rewal Issar,
Advocate

Versus

RAVINDER KUMAR GUPTA Respondent
Through : Nemo.

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CORAM:
HON'BLE MS. JUSTICE ARUNA SURESH

- (1) Whether reporters of local paper may be allowed to see the judgment?
- (2) To be referred to the reporter or not?
- (3) Whether the judgment should be reported in the Digest ?

J U D G M E N T

ARUNA SURESH, J. (Oral)

1. Respondent filed a suit for possession and permanent injunction against the appellant in respect of property bearing No.18/110, East Moti

RSA 153/2008

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physical file have been compared and
the digital data is as per the physical
file and no page is missing.

Bagh, Sarai Rohilla, Delhi. The case of the respondent is that he is the owner of the property and appellant is a tenant in respect of one room of tin shed on the ground floor as shown red in the site plan attached to the plaint.

2. Respondent had also filed an eviction petition against the appellant in respect of the said room. After filing of the said eviction petition, the appellant allegedly encroached upon the open area measuring 12x8 in front of the tenanted room and constructed 'D' shape wall to encircle the encroached open area as shown green in the site plan without the permission of the respondent. This resulted into filing of the suit by the respondent for possession of the encroached land.
3. The appellant contested the suit claiming himself to be the tenant of the disputed open area in front of the demised room under his tenancy and occupation and claimed himself to be in possession of the same since inception of the tenancy. Appellant also claimed that the said open area was the only access available to the demised premises

in his possession.

4. The trial court on the basis of the admission made by the appellant that his father was the tenant in respect of one room and the rent receipt Ex. DW1/2 (colly.) filed by the respondent were correct indicating the tenancy of one room only, was pleased to pass a decree for possession of the area left after deducting the area shown as Z1 to Z2 in the site plan Ex.PW1/2 with a view to enable the appellant to have ingress and egress to his tenanted premises, vide its judgment and decree dated 22.10.2007.
5. The appellant assailed the judgment and decree of the trial court in appeal being RCA No.30/2007. The appellate court upheld the judgment and decree of the trial court and dismissed the appeal, vide its order dated 10.3.2008. Hence, the present appeal.
6. The appellant in his cross-examination as DW1 deposed:

“Site plan Ex.PW1/2 is correct.... Rent receipt Ex.DW1/2 (Colly.) bears the signatures of my father at point A. Ex.DW1/2 (colly.) are the correct receipts but please show me the originals.... It is correct that my father

was tenant in respect of one room.”

7. Thus there is clear admission on the part of the appellant that in the rent receipts, the demised premises is described as one room and also that his father was a tenant in respect of one room. It was on this admission that a decree for possession was passed against him in respect of the open space shown green in the site plan Ex.PW1/2. Appellant even admitted the correctness of the site plan.
8. Under these circumstances, since decree for possession has been passed on the basis of the admissions of the appellant himself no question of law is to be formulated as none is made out, the judgment of the trial court based on the analysis of the evidence of the parties and confirmed by the appellate court is not in conflict with any law.
9. In para 6 of the appeal, appellant has formulated five substantial questions of law. However, perusal of the same indicate that these questions only relate to the fact finding of the appellate court and do not pertain to any substantial question of law.
10. Therefore, since no substantial question of law is to

be formulated in this appeal, I find no merits in the appeal. Same is accordingly dismissed.



(ARUNA SURESH)
JUDGE

SEPTEMBER 14, 2009
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