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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ RSA 232/2008

VIRAT PAL SINGH & ORS. Appellants
Through: Mr. Nasimuddin, Adv.

versus

SATYA NARAYAN & ORS. Respondents
Through: Nemo.

CORAM:
HON'BLE MS. JUSTICE ARUNA SURESH

% **ORDER**
25.08.2009

Shadi Lal was the owner of Property No.7/27,C-1, New No.609, Circular Road, Jwala Nagar, Ram Lila Ground, Shahdara, Delhi (suit premises). He sold half portion of the suit property to appellant No.1 Virat Pal Singh for Rs.25,000/- and executed documents like Power of Attorney, Affidavit and Receipt etc. on 1.3.1984. Shadi Lal left behind a son and a daughter. Hence, after his death appellant No.2 being daughter also inherited in equal share with her brother the remaining portion of the suit premises.

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Allegations of the appellants in the plaint are that respondents allegedly trespassed into the property of the appellant and after demolishing two small rooms, they started construction thereon and despite service of legal notice dated 13.2.1996 they did not vacate the suit premises and constructed a hall in place of the two demolished rooms.

Accordingly, appellants filed a suit for possession of the suit premises and damages, pendent lite and future damages against the respondents. The said suit was duly contested by the respondents wherein they denied the possession of appellants in respect of the suit property. One of the defence raised by respondent No.2 in the written statement was that he had purchased the suit premises from Shri Devi Lal on 20.7.1993 and later on he sold the same to Smt. Indra Devi Sharma and also handed over the possession of the property to her.

Appellants had earlier filed a suit for similar relief against Shri Virender @ Munna, Shri Chotey and Savdesh and Shri Mahesh with similar allegations which was dismissed ex-parte.

Virender @ Munna and Veer Singh @ Chotey happen to be

the grandsons of Shri Shadi Lal. Shadi Lal had bequeathed his property in favour of his grandsons. The trial court considered the said Will executed by Shadi Lal which is a registered Will dated 8.8.1984 and had not been challenged by the appellants. Therefore, Virender Kumar and Veer Singh being the beneficiary of the Will became the owner of the suit property.

The trial court considered the entire oral as well as documentary evidence of the parties on record while concluding that Devi Lal purchased the property from Veer Singh which he further sold to respondents Ravinder Kumar, who in turn sold the same to Smt. Indra Devi Sharma. The trial court after appreciation of the evidence of the parties concluded that the appellants were not the owners of the property in suit and the documents produced by appellant No.1 for sale of the property by Shadi Lal in his favour were found to be sham and fabricated. The court also concluded that the property in suit was in possession of Smt. Indra Devi Sharma who has not been even impleaded as co-defendant in the suit. She being in authorized occupation of the premises and the defendants being not in

possession of the same, plaintiffs were not entitled to the relief as claimed. Hence, the court dismissed the suit of the appellants.

In the impugned judgment, the Appellate Court confirmed the findings of the trial court regarding the title of the appellants in the suit property after assessing the oral as well as documentary evidence produced on record. Under these circumstances, the findings of the Appellate Court based on the findings of the trial court in no manner can be considered as perverse. Those findings are on proper appreciation of oral and documentary evidence of the parties and therefore the appellate court rightly dismissed the appeal.

Under the circumstances, no substantial question of law needs formulation. The questions formulated in the appeal are all against the findings of the appellate court on assessment of the evidence of the parties i.e. on facts and none of these questions involve any question of law to be adjudicated upon or considered by this court.

When only the finding on facts of the trial court as well as of the first appellate court are challenged in the second appeal,

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this court has no jurisdiction to interfere in the same in this appeal. None of the findings of the courts below can be said to be perverse, as no perversity has been pointed out.

Since no substantial question of law need to be formulated in this appeal, it being without any merit is hereby dismissed.


ARUNA SURESH, J.

AUGUST 25, 2009
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