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

Date of decision : September 9, 2009

+ **RSA 244/2008 & CM No. 17196/2008**

BALRAJ Appellant
Through : Mr. S.S. Panwar, Advocate
with Mr. Sunil Dutt Baloni,
Advocate

Versus

RAMPHAL & ORS. 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)

For orders, see file of RSA No.245/2008.


(ARUNA SURESH)
JUDGE

SEPTEMBER 9, 2009
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RSA 244/2008

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by RE 431/09

CM 15327/08 (Aruna)

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

Date of decision : September 9, 2009.

+ **RSA 245/2008 & CM No. 17198/2008**

MATHURA SINGH & ANR. Appellant
Through : Mr. S.S. Panwar, Advocate
 with Mr. Sunil Dutt Baloni,
 Advocate

Versus

BHAGWAN DASS Respondent
Through : Nemo.

AND

+ **RSA 244/2008 & CM No. 17196/2008**

BALRAJ Appellant
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- (1) Whether reporters of local paper may be allowed to see the judgment?
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J U D G M E N T

ARUNA SURESH, J. (Oral)

1. Since both the appeals are connected and the subject matter of both the suits is Plot No.26, Begumpur Park (Harijan Colony), New Delhi and the evidence has been recorded in one case i.e. Suit No. 307/1981 and the said evidence has been assessed by the trial court and the appellate court in both the suits, they are taken up together and dealt with by this common judgment.
2. Respondent Bhagwan Dass (hereinafter referred to as plaintiff) filed a suit for permanent injunction against appellants as well as Sh. Karam Singh and Khiman seeking perpetual injunction for restraining them from interfering in the lawful and peaceful possession of the plaintiff on his plot No.26, Begumpur Park (Harijan Colony), New Delhi, constructed on Khasra No.64,65,78,79,80,81 & 82 of the revenue estate of Village Hojrani of the Delhi State Harijan Cooperative Association Limited claiming himself to be the owner of the said plot, being allottee of the same; by the Delhi State

Harijan Cooperative Association Ltd. vide receipt No.413 dated 29.5.1975. He claimed himself to be in physical possession of the said plot since after its allotment. The suit was contested by the appellants and others. Vide judgment and decree dated 8.4.1994, the trial court decreed the suit of the plaintiff and restrained the defendants from interfering in the lawful and peaceful possession of the plaintiff over the said plot.

3. Aggrieved by the said judgment and decree of the trial court, three of the defendants Mathura Singh, Karam Singh and Balraj filed an appeal before the Additional District Judge being RCA No.16/06/94. Vide well reasoned judgment dated 31.7.2008, the appellate court concurred with the findings of the trial court on merits of the case and finding no merits in the appeal, dismissed the same.
4. The appellants have filed this appeal impugning the judgment and decree of the appellate court dated 31.7.2008. The trial court after assessing the oral as well as documentary evidence as adduced and proved on record by the parties concluded that

plaintiff is the allottee of plot No.26 and accordingly decreed the suit. The findings of the trial court on facts of the case have been concurred by the appellate court. The substantial question of law formulated by the appellants find mention in para 5 of the appeal. Perusal of the record and the impugned judgment clearly indicates that no substantial questions of law can be formulated. The fact findings of the courts below have been questioned on merits and not on any question of law.

5. The grievance of the appellants, if any, is against the Delhi State Harijan Cooperative Association Ltd. who according to the appellants forged and fabricated the receipts by manipulating the same in favour of the plaintiff and other persons who are members of the Association. Delhi State Harijan Cooperative Association Ltd. is not a party to the suit.
6. Therefore, if the appellants have any grievance against the allotment of the suit plot in favour of the plaintiff by the Association, the remedy lies

elsewhere and not by way of this appeal.

7. Plaintiff examined Amar Singh Chalia as PW-2. He is one of the office bearers of the Association. He testified that plot in question was allotted to the plaintiff. Simply because he has been examined as PW-2, does not give any right to the appellants to assail the judgment and decree of the appellate court on the grounds that the Association had forged and fabricated the record and the receipts in favour of the plaintiff.
8. Learned counsel for the appellants has referred to the report of the Local Commissioner, Ex.DW3/1, in suit No.307/1989 which was filed by defendant Balraj (appellant No.2), subject matter of which was Plot No.26, Begumpur Park (Harijan Colony), New Delhi, to emphasise that an illegality was committed by the appellate court while construing the report of the Local Commissioner which was not challenged by either of the parties. The fact remains, the report of the Local Commissioner has been taken care of by the appellate court. Perusal of the record makes it clear that there was no basis

for the Local Commissioner to come to a conclusion that Balraj was in possession of the said plot. His report is contradictory in nature. At one place the Local Commissioner has referred to the information received by him from a neighbour, according to whom the wood-logs lying in the plot belonged to the government. As per the report both the parties claimed themselves to be in possession of the tin-shed, Bitora, bricks etc. Therefore, to say that appreciation of report of Local Commissioner by the appellate court was not correct and raises a substantial question of law is not correct.

9. Hence, I conclude that there is no substantial question of law involved in these appeals as the entire case is decided on the basis of the evidence adduced on the record. The fact finding of the trial court has been upheld by the appellate court. Under these circumstances, the appeals are dismissed.


(ARUNA SURESH)
JUDGE

SEPTEMBER 9, 2009
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