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IN THE HIGH COURT OF DELHI AT NEW DELHI

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C.M. (Main) No.277 of 2010 & C.M. Appl. No.3788 of 2010

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02.03.2010

VISHAL CHAWLA & ORS.

.....Petitioners

Through: Mr. Tripat Singh, Advocate.

Versus

PREM KUMAR

.....Respondent

Date of Order: 2nd March, 2010

JUSTICE SHIV NARAYAN DHINGRA

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

J U D G M E N T

SHIV NARAYAN DHINGRA, J. (ORAL)

1. This petition has been preferred against an order dated 29th January, 2010 passed by learned Additional District Judge whereby he dismissed an application under Order VII Rule 11 CPC made by the respondent.

2. The petitioners sought dismissal of the suit filed by the plaintiff/respondent on the ground that the documents of title filed by the plaintiff/respondent were unregistered General Power of Attorney, Agreement to Sell, etc. and could not be looked into and, therefore, the suit was not maintainable.

3. It is petitioners' own case before the trial court was that the petitioners paid consideration amount to the respondent in respect of the premises in question and, therefore, they were in possession of the premises of their own right. The petitioners alleged that they purchased this property from the respondent. If the petitioners had allegedly purchased this property from the respondent, the petitioners cannot seek

dismissal of the suit of the respondent on the ground of respondent having no title. If the petitioners were in permissive possession as is alleged by the respondent/plaintiff even then, the petitioners could not have assailed the ownership of the respondent and sought dismissal of suit on this ground. The issue of ownership in fact, could not have arisen viz-à-viz petitioners since the petitioners were either in permissive possession from the respondent or they were, as alleged by them, purchaser of the property from the respondent.

4. A tenant, a licensee or a trespasser has no right to assail the ownership of landlord licensor or the person whose property has been trespassed, either on the ground of imperfect title or on the ground of unregistered documents or documents not bearing proper stamp duty. How these documents are to be dealt with, if they are not duly stamped is to be decided by the court. The court can impound unstamped document and refer the same to the Collector of Stamps for proper stamping. But neither the tenant nor licensee nor trespasser has right a to get the suit filed by the landlord or the licensor dismiss on the issue of ownership.

5. Counsel prayed that the court should waive the cost imposed by learned Additional District Judge. This plea also cannot be entertained. An appeal/revision does not lie against imposition of cost by the trial court. The imposition of cost cannot be assailed under Article 227 of the Constitution of India.

6. This petition has no force as is hereby dismissed.

SHIV NARAYAN DHINGRA J.

MARCH 02, 2010
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