

*** HIGH COURT OF DELHI: NEW DELHI**

C R P No. 127/2010 & CM No. 12080/2010

% Judgment reserved on: 30th September, 2010

Judgment delivered on: 25th October, 2010

1. Smt. Shanti Devi,
W/o Late Sh. Om Prakash,
2. Sh. Ajay Sharma,
S/o late Sh. Om Prakash.
3. Smt. Vijay,
W/o Late Sh. Mool Chand.
4. Smt. Vinay,
W/o Sh. Yashpal.
5. Smt. Suman,
W/o Sh. Sreepal.
6. Smt. Sunita,
W/o Sh. Sunil.
7. Smt. Sugain,
W/o Sh. Vijay Pal.
8. Smt. Neetu,
W/o Sh. Jasbir,

All C/o 2892/1A, Chowk Singhara,
Qutab Road, Delhi-110 006.
(LRs No.1 & 3 to 8 represented
through constituted Attorney
Shri Ajay Sharma (LR. No. 2).

....Petitioners.

Through: Mr. V. K. Khurana, Adv.

Versus

Mohd. Furman,
S/o abdul Salam,
R/o 9025, Ram Bagh Road,
Phool Ban Garhi, Delhi.

....Respondent

Through: Nemo

CORAM:

HON'BLE MR. JUSTICE V.B. GUPTA

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

V.B.Gupta, J.

This revision petition under Section 115 of the Code of Civil Procedure 1908 (for short as 'Code') has been filed on behalf of petitioners challenging order dated 28th April, 2010 passed by Commercial Civil Judge, Delhi. Vide impugned order, application under Order 22 rule 4 read with Section 151 and Order 22 rule 9 of the Code, of respondent was allowed.

2. Respondent had filed a suit for possession and injunction against Om Parkash (since deceased). Petitioners who are the legal heirs of deceased-Om Parkash, have already been brought on record as application under Order 22 rule 4 of the Code filed by respondent was allowed.

3. On 14th July, 2010, when present petition came up for hearing, it was noted by this Court that petitioners have not stated in the entire petition as to what proceedings have taken place in the trial court after passing of impugned order and what was the stage. Counsel for petitioners stated that he does not know about the next date of hearing before the trial court. Accordingly, counsel was directed to file certified copies of the trial court proceedings, after 28th April, 2010, within two weeks.

4. On 30th August, 2010, learned counsel for petitioners pointed out that suit of respondent has already been decreed on 31st July, 2010. Petitioners counsel sought time to file the certified copy of the judgment, which was filed later on.

5. Since, trial court has already decreed the suit in favour of the respondent and against the petitioners, it was pointed out to the

learned counsel for petitioners that present petition, under these circumstances is not maintainable. However, learned counsel insisted that present revision petition even then is maintainable. In support learned counsel, cited following judgments;

*i) East India Cotton Manufacturing Co. Ltd.
Vs. S. P. Gupta,
28 (1985) Delhi Law Times 22and*

*ii) Siri Krishan Bhardwaj Vs. Manohar Lal Gupta,
AIR 1977 Delhi 226;*

6. As suit for possession and injunction filed against petitioners has already been decreed on 31st July, 2010, present petition challenging order dated 28th April, 2010, vide which respondent's application under Order 22 Rule 4 of the Code was allowed, under these circumstances has become infructuous. Judgments cited by learned counsel for petitioners are not applicable to the facts of the present case. It is well settled that,

“Once a suit is finally disposed of by the Civil Court, all the interim as well as interlocutory orders passed in the suit merges with the final order”.

7. Since, decree has been passed by the trial court, the present petition is not maintainable.

8. Present petition stands disposed of being infructuous.

CM No. 12080/2010

9. Dismissed.

25th October , 2010
ab

V.B.GUPTA, J.