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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Reserve: February 23, 2010

Date of Order: March 02, 2010

+ CM(M) 650/2009

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02.03.2010

Smt. Poonam Manchanda

...Petitioner

Through: Mr. A.K.Singla, Sr. Advocate with
Mr. Pankaj Gupta & Mr. J.K.Sharma, Advocates

Versus

The Presiding Officer & Ors.

...Respondents

Through: Mr. Mayank Bansal, Advocate for R-2

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?

JUDGMENT

1. By this petition, the petitioner has assailed an order dated 02.02.2009 passed by Presiding officer, DRT-II, Delhi, whereby learned DRT issued a direction for preparation of recovery certificate in terms of decree and judgment passed by this court, for Rs. 8,14,007/- with one half costs and interest pendent lite and future interest @ 12% per annum.

2. This Court had decreed a Suit No. 3477/91 vide decision dated 17.09.2002 for a sum of Rs. 8,14,007/- with one half costs and interest pendent lite and future interest @ 12% per annum. After creation of Debt Recovery Tribunal, the

decree was filed before the Debt Recovery Tribunal for recovery of the amount and Debt Recovery Tribunal passed the impugned order. The petitioner was not a party to the suit but claims to be a subsequent purchaser of the property of Judgment Debtor, on the basis of a registered agreement to sell, executed sometime in April, 2007. He had not made the Judgment Debtor as a party to this petition but had made only decree holder, i.e., the bank as a party. The petitioner has no locus standi nor a right to assail the judgment passed by this court since he was not a party to the proceedings of this court. Neither he has a right to assail the order passed by learned Debt Recovery Tribunal, on the basis of decree passed by this court. The petition is *per se* is not maintainable and is liable to be dismissed on this ground alone.

3. Learned counsel for petitioner contended that learned Debt Recovery Tribunal had treated the decree passed by this court as a preliminary decree and issued a recovery certificate. This argument again is not tenable. A mere mistake in describing the nature of decree passed by this court would not entitle the petitioner to approach this court under Article 227 of the Constitution. A perusal of the order passed by learned Debt Recovery Tribunal shows that at one place in its order, learned Debt Recovery Tribunal observed that preliminary decree was passed by this court on 17.09.2002. This only seems to be a mistake in describing the decree passed by this court and nothing more. Thus, plea raised by petitioner is false and this petition is a frivolous petition.

4. I, therefore, dismiss the petition with cost of Rs. 50,000/-, being a

frivolous petition filed with the purpose for staling the proceedings before the Debt Recovery Tribunal. The above-said cost shall be recoverable by Debt Recovery Tribunal from the petitioner by way of attachment of moveable assets.

March 02, 2010
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SHIV NARAYAN DHINGRA J.