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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) 1649/2007

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Matru Lal

Through: Ms. Sonali Malhotra, Advocate

Versus

Suraj Pal

Through: nemo

02.03.2010

...Petitioner

...Respondent

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, petitioner has assailed an order dated 27.08.2007 passed by learned Civil Judge, whereby learned Civil Judge allowed an application under Order 6 Rule 17 made by the respondent for amendment of written statement.

2. The petitioner filed a suit before the Civil judge, reclaiming possession from the respondent of a room, on the grounds that respondent was a licensee of the petitioner in that room. The defence taken by the respondent was that he was a tenant in the room and the suit filed by the petitioner was not maintainable in view of Delhi Rent Control Act. Respondent, after framing of issues and when the case at the stage of evidence, moved an application for

amendment in written statement, so as to incorporate certain more facts reflecting that he was a tenant and not a licensee. The learned trial court considered the amendments sought by the respondent and observed that respondent was very much having the knowledge of the facts which he wanted to incorporate by way of amendments and should have been more diligent while filing the written statement initially, but had allowed the amendment of written statement subject to costs on the ground that the amendments were only explanatory in the nature and no new defence was raised by the defendant.

3. It is settled law that this Court while exercising power under Article 227, does not act as a Court of Appeal and the power under Article 227 cannot be exercised to correct a mistake of law or a mistake of facts committed by the court below; and powers are to be exercised only in those cases where the trial court exceeded its jurisdiction; or failed to exercise its jurisdiction; or passed an order which was palpable contrary to the settled legal propositions.

4. I consider that present petition under Article 227 was not maintainable, as trial court had exercised its jurisdiction within the bound of law and it is not a case of exceeding jurisdiction. The petition is hereby dismissed.

March 02, 2010
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SHIV NARAYAN DHINGRA J.