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HIGH COURT OF DELHI AT NEW DELHI

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CRP. No. 10/2015

Decided on: 15th September, 2015

KULWANT SINGH & ORS.

..... Petitioner

Through: Mr. Prakash Chander , Advocate.

Versus

MAHARANI BAGH RESIDENTS WELFARE & ORS.

.....Respondent

Through: Mr. Tarun Singla, Advocate along with
Mishal Vij, Advocate
Mr. Digvijay Rao, Mr Dhiraj Adv. for R-2
Mr. Dhanesh Relan, Standing Counsel for
DDA/ R-3

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (ORAL)

1. The present revision petition has been filed challenging the order dated 15.10.2014 dismissing the petition of the present petitioners who were defendant no. 3 to 8 in the original suit.

2. I have heard the learned counsel for the parties and gone through the records including the impugned order.

3. Briefly stated the facts are that the respondent no.1 an association filed a suit for permanent prohibitory injunction and cancellation of documents and declaration in respect of parcel of land in village Kilokri. which was apparently in possession of the present petitioner.

4. The present petitioner/defendant had filed an application for rejection of the plaint under O.7 R.11 CPC. The first point raised in the said application was that the high court vide order dated 30.07.2013 had ordered the respondent to pay the deficient court fees within a stipulated period of four weeks but the same was deposited on 29.08.2014, whereas the time expired on 26.08.2014. Since the court fee was filed with a delay of 2 days therefore the plaint be rejected.

5. The trial judge has rejected this plea and rightly so. The reasoning given by the learned judge is that four weeks in common parlance is taken to mean one month. If the same is taken by weeks then it would be 28 days but if taken as a month it would tantamount to 30 days. In the instant case it is this calculation which has resulted in delayed deposit of the deficient court fees by two days. Thus on the basis of the aforesaid reasoning the contention of the petitioner/defendant was rejected.

6. The second objection taken by the petitioner/defendant was with regard to the valuation of the suit. It was contented that the respondent no. 1 ought to have valued the suit on market value rather than the nominal value as is done by him.

7. In this regard the court observed that S.7 (iv) (c) of the Court Fees Act gives a discretion to the party to the suit to value his suit unless this valuation is abnormally absurd it has to be accepted by the court and at best it could be a ground to frame an issue with regard to valuation which if framed the onus of the proof can be put on the defendant who says that the suit is not properly valued for the purpose of court fee. This plea also was found to be bereft of any merit.

8. A party must keep in mind that the procedural laws are for the purpose of facilitating the final adjudication of the lis between the parties. It is not to be used to trip a party out of the contest on technicalities by doing so it gives an impression that the party who uses such method is not a strong wicket so far as the merit of the case is concerned and therefore wants to take the help of technicalities. Moreover it causes avoidable delays in the disposal of the case.

9. For the reasons mentioned above, I do not find any material irregularity or patent illegality in the impugned order which may warrant any interference of this court.

10. Accordingly the revision petition dismissed.

V.K. SHALI, J.

SEPTEMBER 15, 2015
‘AD’