* **HIGH COURT OF DELHI AT NEW DELHI**

\+ **R.S.A. No.58/2015**

Decided on : 26th February, 2015

RAVI RAWAL @ RAVINDER KUMAR …… Appellant
Through: Mr. Bharat Singh Sisodia & Mr. Anil Kumar, Advocates.

Versus

JAGAN NATH & ANR …… Respondents

CORAM:
HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (*ORAL)*

1. This is a regular second appeal filed by the appellant against the judgment dated 17.10.2014 passed by the learned Additional District Judge by virtue of which his first appeal bearing R.C.A. No.25/2013 was dismissed.

2. Briefly stated the facts of the case are that the present appellant had filed a suit for possession against the respondents claiming himself to be the owner of 20 square yards of land on the basis of the documents like power of attorney, receipt, Will, etc. The documents on the basis of which he was claiming himself to be the owner were not registered. The learned trial court after framing the issues and permitting the parties to adduce their evidence; dismissed the suit holding that in terms of *Suraj Lamp & Industries Pvt. Ltd. Vs. State of Haryana & Anr.; (2012) 1 SCC*

656, the appellant was not able to establish his ownership in respect of the suit property and consequently, he could not be permitted to retrieve the possession from the respondents.

3. The appellant felt aggrieved and filed an appeal bearing R.C.A. No.25/2013 which met the same fate.

4. Still not feeling satisfied, the appellant has chosen to file the present regular second appeal to contend that it raises a substantial question of law. For this purpose, the appellant has sought to place reliance on *Ramesh Chand vs. Suresh Chand & Anr.;* 188 (2012) DLT 538 to urge that notwithstanding the fact that he has not got the document of GPA or the agreement to sell or other documents registered still he can be considered to be the owner in the light of the aforesaid judgment.

5. I have gone through the aforesaid judgment. The facts of the said judgment are totally different from the facts of the present case. In the present case, there is a concurrent finding holding against the appellant that he has not been able to establish his ownership in respect of the suit property nor has he been able to establish that the person who is purported to have sold the suit property had a title to the land. The appellant, in the instant case, has not examined either any attesting witnesses or any other person except his own self and the one relation to claim himself to be the owner of the suit property. In comparison to this, the judgment which has been relied upon by the learned counsel for the appellant, the question which had arisen for consideration was that a

person who is claiming himself to be the owner of the suit property on the basis of an agreement to sell, power of attorney, etc., it is inescapable what will be his status keeping in view the provisions under Section 53A and other related provisions of the Transfer of Property Act, 1882.

6. The Supreme Court in catena of cases has observed that the law which is laid down in a given case should not be applied blindly without reference to the facts of each case. Meaning thereby there must be some *peri materia* or comparison or some similarity of facts before what is held in a judgment is made applicable to the case in hand. That situation is not available in the present case and consequently, I hold that *Ramesh Chand's* case (*supra*) is not an apt judgment to be relied upon in the facts of the present case.

7. Since there is a concurrent finding in the present case holding that the appellant has not been able to establish his ownership of the suit property, consequently, no substantial question of law arises. Accordingly, the appeal is dismissed.

V.K. SHALI, J.

FEBRUARY 26, 2015
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