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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **RSA 138/2016**

Date of Decision: 20.05.2016

BEJENDER SINGH Appellant
Through Mr.Vinod K Singh, Adv.

versus

SUDHIR PANWAR Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ASHUTOSH KUMAR, J. (ORAL)

CM Appln.19171/2016

Exemption granted subject to all just exceptions.

Application stands disposed of.

RSA 138/2016

1. The appellant, Bejender Singh had filed civil Suit No.208/2013 seeking permanent injunction against the respondent/defendant and his agents from interfering in any manner with respect to possession of the appellant/plaintiff in the suit property bearing No.A-25, Anand Vihar, Delhi, of which he claimed to be the owner and in settled possession of, having purchased it from the erstwhile owner through a sale deed dated 22.11.1996. The aforesaid sale deed was stated to be registered by document No.6094 in Volume 1 Book No.2904 at pages 1 to 7 in the office of the Sub Registrar, North East.

2. The appellant/plaintiff did not file the original sale deed or the certified copy but merely relied upon photocopy of the certified copy of the sale deed. The Trial Court, therefore, called for a report from the sub Registrar's office. The report which was received in the Trial Court from the sub Registrar's office indicated that against registration No.6094 dated 22.11.1996, placed at serial No.27 of the "peshi register", was the sale deed which was registered in the name of one S.K.Ahuja, the property having been conveyed by one Harbhajan Kaur.

3. Avtar Singh, a Lower Division Clerk from the sub Registrar's office who was present before the Trial Court on 24.12.2014 submitted that the sale deed which is being relied upon by the appellant/plaintiff was in fact never registered.

4. As against the aforesaid report, the appellant/plaintiff submitted before the Trial Court and showed a letter dated 21.11.2011 addressed to the appellant/plaintiff by the sub Registrar informing him that the sale deed by which he claims to have purchased the property is not traceable in the office and necessary information shall be given to him once it is traced out. It was thus argued, initially, by the appellant/plaintiff that the photocopy of the certified copy of the sale deed which was filed in the Court was a genuine document.

5. After some arguments the suit of the plaintiff was withdrawn on the instruction of the appellant/plaintiff.

6. However, taking into account the fact that an FIR No.51/2014 in Anand Vihar police station was registered against the appellant/plaintiff with regard to the offence of forgery of the sale

deed which was being relied upon in the present suit wherein the appellant/plaintiff was arrested and sent to custody as also the order dated 13.08.2014 passed in Suit No.295/2014 (Smt.Inderjeet Chhabra vs. Bijender Singh) on an application under Order 39 Rules 1 & 2 CPC wherein one Smt.Inderjeet Chhabra was found to be in possession of the suit property being its owner, the Trial Court came to the conclusion that the appellant/plaintiff had not approached the Court with correct/genuine facts. The Trial Court was also made known about another litigation qua the suit property namely Suit No.335/2013 (Bijender Singh vs. Amarjeet Singh Chhabra & Ors.). In the aforesaid case also, the Civil Judge had raised doubts over the authenticity of the sale deed which was relied upon by the appellant/plaintiff.

7. Relying upon the ratio of ***Ramrameshwari Devi vs. Nirmala Devi, (2011) 8 SCC 249***, the Trial Court saddled the appellant/plaintiff with a cost of Rs.2 lakhs to be paid to Delhi High Court Legal Services Authority and initiated proceedings under Section 340 of the Code of Criminal Procedure against the appellant/plaintiff for having made a wrong statement in his complaint.

8. Against the aforesaid order imposing cost of Rs.2 lakhs and initiation of prosecution under Section 340 of the Cr.PC, the appellant/plaintiff preferred an appeal under Section 104 read with Order XLIII CPC vide RCA No.102/16/15.

9. The Lower Appellate Court dismissed the appeal by holding that nothing lesser than the cost awarded by the Trial Court could be conceived of. The Appellate Court also took note of the fact that

though the appeal before it was filed under Section 104 of the CPC but the appellant/plaintiff tried to make out a case on merits. There was also no specific averment/prayer in the memo of appeal regarding reduction in the amount of the cost imposed.

10. The contention of the appellant that the Trial Court ought to have provided him with an opportunity of cross examining the LDC of sub Registrar's office with respect to the contents of the report, does not have any substance as the specific registration number which was provided by the appellant/plaintiff turned out to be of another conveyance and not the one which was relied upon by the appellant/plaintiff. In the absence of the certified copy of the sale deed and the report of the sub Registrar regarding no such sale deed as relied upon by the appellant/plaintiff having been registered in the concerned office, there was no necessity for the Trial Court to have permitted the appellant/plaintiff of any opportunity to cross examine the LDC who had come to the Trial Court with the report.

11. The objections of the appellant/plaintiff to the orders passed by both the Courts below are not worth acceptance as there are two other litigations qua the ownership/title of the suit property and in both the litigations, serious doubts have been raised about the bonafide of the appellant/plaintiff.

12. No litigant could be permitted to raise frivolous pleas one after the other, at different tiers of the legal forum and get away without even getting fined for such misadventure.

13. This Court does not accept the submission tendered on behalf of the appellant/plaintiff that there is some foul play at the level of the

junior officials in the sub Registrar's office for the reason that no benefit would accrue to any staff of the office in putting doubts about the reliability/genuineness of the document sought to be relied upon by the appellant/plaintiff. In view of the report and the specific averment of Avtar Singh, the LDC from the sub Registrar's office, the Trial Court rightly initiated proceedings under Section 340 of the Code of Criminal Procedure.

14. The Lower Appellate Court justifiably did not interfere with the directions of the Trial Court.

15. This Court is of the considered opinion that no fault could be found with the orders of the Courts below.

16. The second appeal is, therefore, for the aforesaid reasons, dismissed.

CM Appln.19170/2016

1. In view of the petition having been dismissed, the application has become infructuous.

2. The application is disposed of accordingly.

ASHUTOSH KUMAR, J

MAY 20, 2016

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