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

+ CS(OS) 2839/2012 & I.A. Nos. & I.A.Nos. 17255/12(stay),  
17256/12(U/o 40 R 1 and O 39 R 10 CPC), 4275/13(U/o 1 R 1 CPC)  
& 7581/14(seeking modification of order dt. 1.9.13)

RAM KISHOR ..... Plaintiff

Through Mr.Varun Nischal, Adv.

versus

KANWAL SINGH & ORS ..... Defendants

Through Mr.Y.R.Sharma, Adv. for D-2.  
Ms.Noopur Singhal, Adv. for D-21 to  
23 and 26.

**CORAM:**

**HON'BLE MR. JUSTICE VALMIKI J. MEHTA**

**ORDER**

% **15.03.2016**

1. On 2<sup>nd</sup> March, 2016, the following order was passed

*“1. A reading of the record of this suit shows that this suit would be barred by res judicata in view of the earlier judgment of a learned Single Judge of this Court dated 20.5.2008 in CS(OS) No. 375/2001 and which was carried in appeal by the present plaintiff and was also decided against the present plaintiff by the judgment of the Division Bench dated 20.1.2012 in RFA(OS) 54/2008. Though the suit was dismissed by the learned Single Judge vide his judgment dated 20.5.2008 on various grounds, Division Bench in its judgment dated 20.1.2012 confirmed the dismissal of the suit on the ground that plaintiff failed to file any title documents or revenue records to show that Sh. Mamraj was the owner of the suit property and hence the plaintiff becomes owner of the suit property as a legal heir of Sh. Mamraj.*

2. *As per the present suit filed, even summons ought not to have been issued, in my opinion, because plaintiff has again not filed any title documents or revenue records to show ownership of Sh. Mamraj of the three suit properties.*

3. *Though I was not inclined to adjourn the matter and the suit has to be dismissed in view of the judgment of the Division Bench dated 20.1.2012 in RFA(OS) 54/2008, only in the interest of justice, list on 15<sup>th</sup> March, 2016.”*

2. Even today no title documents have been filed by the plaintiff to show that Sh. Mam Raj was the owner of the suit property and, therefore, plaintiff being legal heir of Sh. Mam Raj is entitled to ownership of the suit property. In the earlier litigation being RFA (OS) 54/2008, which was decided by a Division Bench of this court vide a judgement dated 20.01.2012, the following observation has been made by the Division Bench.

*“14. The sweeping observations made by the learned Single Judge, without analyzing as aforesaid, lays down an incorrect law and to that extent impugned judgment and decree is set aside. However, noting that the pleadings are vague and that qua land as per plan marked ‘C’ there is clarity of the said land being within the holding, the suit would not be maintainable in respect of said land in any case. Qua the remainder land, on account of vagueness in pleading and additionally for the reason there is no averment regarding the settlement record where Mam Raj is recorded as the owner of the lands, we concur with the view taken that on said reasoning the suit is liable to be dismissed. In the decision reported as AIR 1999 SC 1464 D.M.Deshpande vs. Janardhan Kashinath Kadam, the Supreme Court clearly laid down that issues cannot be settled on vague pleadings and that if there is no concise statement of a material fact in either pleading i.e. in the plaint or the written statement of material fact in either pleading i.e. in the plaint or the written statement, the said plea has to be ignored. We would be failing not to note that*

*in Delhi it has become a practice of many unscrupulous elements to file collusive suits for partition with respect to gaon sabha land and then enforce the collusive decrees through Court processes to gain possession of gaon sabha lands. Thus, Courts have to be vigilant when such suits are filed and where the plaint does not disclose the relevant revenue record where a bhoomidari or a possessory right of a person is recorded. Such suits are liable to be dismissed at the threshold on account of vague pleadings. Where a party claims a particular land to be ancestral, a concise statement of material facts, needed to maintain the action has to include a statement in the pleadings as to in which record the ownership, bhoomidari or possessory right is recorded.*

*15. Clarifying on the law as aforesaid but agreeing with the final decision arrived at, the appeal is dismissed leaving the parties to bear their own costs.*

3. It is clear that the subject suit was entertained, that too way back in 2012 without ensuring compliance of observations made by the Division Bench in paras 14 and 15 of the judgement dated 20.01.2012 in RFA (OS) 54/2008 i.e. plaintiff has not substantiated ownership to Sh. Mam Raj by any title document. Once Sh. Mam Raj is not the owner, the legal heir of Mam Raj cannot claim ownership which never was in the ownership of Sh.Mam Raj. The suit is accordingly dismissed.

**VALMIKI J. MEHTA, J**

**MARCH 15, 2016/mr**  
CS(OS) 2839/2012

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