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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RSA 153/2024, CM APPL. 48167/2024, CM APPL. 56435/2024
GYANENDER SHARMA & ORS.Appellants

Through: Mr.Suresh Sharma and Mr.Dhruv
Sharma, Advs.

versus

BRIJ MOHAN GUPTARespondent
Through: Mr.J.K.Srivastava and Ms.Taruna,
Advs.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **04.10.2024**

1. Since the respondent is represented, therefore, issuance of notice is not required.
2. The instant appeal at the instance of the defendant/appellant seeks to assail the judgment and decree dated 04.06.2024 passed in R.C.A. 72/2019, whereby, the appeal against the judgment and decree passed by the Trial Court dated 06.09.2019 decreeing the suit has been dismissed.
3. The plaintiff/respondent instituted a suit for possession and injunction, claiming himself to be the owner of the property. The defendant/appellant set up the case with respect to the description of the property and according to him, the suit was filed with respect to Plot No. 16, Khasra No.13, Haiderpur Village, Shalimar Extension, Delhi, whereas, the defendant/appellant was in possession of property situated at Plot No. C-544, Shalimar Gaon, Delhi.
4. The Trial Court after framing the issues and examining the witnesses, decreed the suit and held the plaintiff/respondent is entitled for possession



and injunction. The said finding was assailed before the first appellate court and the first appellate court also while affirming the findings of the Trial Court, dismissed the appeal.

5. Learned counsel appearing on behalf of the defendant/appellant submits that the appellant is in possession of Plot No. C-544, Shalimar Gaon, Delhi and under the guise of the judgment and decree which essentially relates to Plot No. 16, Khasra No.13, Haiderpur Village, Shalimar Extension, Delhi, the possession of the defendant/appellant's plot is sought to be obtained. He, further, submits that the aforesaid aspect is evident from the report of the bailiff.

6. I have considered the submissions made by learned counsel appearing on behalf of the parties and have also perused the record.

7. It is palpably evident from the face of the record that the impugned judgment and decree relates to Plot No. 16, Khasra No.13, Haiderpur Village, Shalimar Extension, Delhi. The same will have to be executed in terms thereof. The executing court is under an obligation to execute the decree the way it has been framed and if the defendant/appellant has any objection with respect to taking over the possession of the different property, the same can be raised before the executing court which shall deal with the same, in accordance with the law. However, such alleged discrepancy can not be said to have given rise to a substantial question of law. In absence thereof, the appeal fails and is, hereby, dismissed.

9. All pending applications are also disposed of.

PURUSHAINDR KUMAR KAURAV, J

OCTOBER 4, 2024/MJ