

CS No.297/18

Hriday Naraian Dwivedi @ H. N. Dwivedi Vs. Sh. Ramesh Ram

19.07.2019 (at 04:35 pm)

Present: None.

1. An application of the defendant no. 1 Ramesh Ram under sections 10/151, CPC is pending disposal. Arguments were heard on 16.07.2019. Record perused.

2. This is a suit for recovery of Rs. 11,13,000/- together with interest thereon being the unpaid loan amount. The plaintiff states that post dated cheques had been given by defendant no. 1 Ramesh Ram against the loan. The plaintiff further states that defendant no. 2 Ms. Shanti Devi had also handed over her original property documents and also executed a mortgage agreement.

3. Prior to the present suit defendant no. 2 Ms. Shanti Devi had filed a suit for permanent and mandatory injunctions before the Court of Senior Civil Judge/Civil Judge. Her assertion is that she had taken loan of only Rs. 3 lacs from plaintiff herein and which amount she had already returned. Her relief is for mandatory injunction for return of the original cheques and her property documents; and for mandatory injunction that the plaintiff herein does not sell out her house and misuse the cheques.

4. One of the fundamental conditions for application of section 10, CPC is that the Court of the previous suit should have the jurisdiction to grant the relief sought for in the subsequent suit. The Court of Civil

Judge/Senior Civil Judge before which the previous suit is pending does not have the jurisdiction to try the present suit which is for recovery of Rs. 11,13,000/- together with interest thereon. In Delhi, the pecuniary jurisdiction of the Court of Civil Judge/Senior Civil Judge is only up till Rs. 3 lacs. The aforesaid application of defendant no. 1 Ramesh Ram under sections 10/151, CPC stands dismissed being meritless.

5. List on 15.10. 2019 for PE.

(MURARI PRASAD SINGH)
Addl. District Judge-03(East)
Karkardooma Courts-19.07.2019