

BHAGAT SINGH AND ORS. Vs. RAJINDER PRASHAD

27.05.2023

Present: Sh. Ratan Prakash, Ld. Counsel with the Plaintiffs Sh. Bhagat Singh and Sh. Prem Singh.
Sh. R. K. Santoshi, Ld. Counsel with the defendant.
Sh. Prakash files written arguments and supplies copies.

Heard arguments on the application under Order VII Rule 11 CPC. Sh. Santoshi, has raised many fold objections on the grounds of the plaintiff not coming to the Court with clean hands, as not paying sufficient and proper Court Fees, nor valuing the suit properly and his submission is that the property, in respect of which declaration /possession is being sought values more than Rs.1 Crore as on the date of suit and a valuation of merely, Rs.25 Lakhs has been put by the plaintiff.

He also objects the suit on the ground of applicability of the principles of res-judicata and details out the history of previous litigations, undergone between the parties/ successors etc.

He also pleads lack of cause of action, in the suit on the ground that after the decision in appeal on 02.06.2014, the plaintiff did not go in second appeal and the present suit being filed after considerable time without any fresh ground pleaded in the plaint and for these reasons, he also pleads bar of limitation.

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On the other hand, Sh. Prakash submits that the property, in fact, situates in a village and the suit was filed in 2016 and the defendant has not raised his objection to the valuation /payment of Court Fees by the plaintiff on any substantial basis and in that event the parties may be left to lead their respective evidence in case the Court finds it appropriate.

He also contends that the property is an ancestral one and is in fact, falling in Khasra number 193/3, Village Khichdipur, East Vinod Nagar and the land in respect of which the defendant litigates falls in Khasra number 193/2, according to Sh. Prakash.

Put up on **22.07.2023** for further arguments in the matter.

(Sanatan Prasad)
Addl. District Judge-02 (East)
Karkardooma Courts/ 27.05.2023