

CS 17198/16  
SUNIL AND ORS Vs. KAMLESH AND ORS

04.12.2017

Present: Sh Sunil Chauhan, Ld. counsel for plaintiff alongwith

Sh Jogender stated to be brother of plaintiff

Defendant no. 1 and 3 are ex parte.

Sh Jogender Sehrawat, Ld. counsel for defendant no.2

Upon short submissions by both parties in light of doubts expressed by the court on maintainability for want of the prayer for declaration of title of the plaintiffs ( with reference to the principles recognized in the decision reported as *Anathula Sudhakar Vs. P. Buchi Reddy, 2008(4) SCC 594*, the court finds it fit that the following additional issue is framed as issue no.6 in the issues originally framed on 18.10.2016:-

Issue no.6

Whether the present suit for permanent injunction simplicitor is maintainable without the prayer for declaration of title of the plaintiffs? ....OPP

However, since other issues have already been framed, the court would be required to decide all issues and the suit cannot be disposed upon a purely legal/ preliminary issue in light of Order 14 Rule 2 CPC. Issue no.6 framed on 18.10.2016 shall be treated as issue no.7. The issues are now to read as:-

1. Whether the plaintiffs have no locus-standi to file the present suit?

...OPD-2

2. Whether the suit of the plaintiffs is barred by section 185 of Delhi Land Reforms Act ? ....OPD-2

3. Whether the plaintiffs have not properly valued the present suit for

the purpose of court fees and jurisdiction? ....OPD-2

4. Whether the suit of the plaintiffs is bad for non-joinder of necessary party? ...OPD-2

5. Whether the plaintiffs are entitled for the decree of permanent injunction as prayed for? ...OPP

6. Whether the present suit for permanent injunction simplicitor is maintainable without the prayer for declaration of title of the plaintiffs? ....OPP

7. Relief

List for further cross examination of PW-1 on 05.02.2018.

(VISHAL GOGNE)  
ADJ-02 : Dwarka Courts  
New Delhi/04.12.2017