

(SHRI)KULBIR SAHI Vs. UNION OF INDIA AND ANR

07.04.2022

Present: Sh. Amod Sharma, Ld. Counsel for the appellant with apellant in person.

Sh. Dharamveer Gupta, Ld. Counsel for the respondent no. 2/MCD.

Sh. Ravi Ranjan, Ld. Counsel for respondent no. 1.

Matter is listed today for arguments on appeal. However, an application under Section 151 CPC filed on behalf of the appellant seeking adjournment on the ground that he had applied for certain RTIs, however, the official of respondent no. 2 are deliberately supplying the same. It is submitted that the said RTIs are important for the arguments on the present appeal. Accordingly, adjournment is sought.

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Application is perused. Submissions heard.

This is an appeal against dismissal of interim application of the appellant by Ld. Trial Court. The application for adjournment filed today does not specify as to how RTIs applied by the appellant are important for the argument of the present appeal. Still in the interest of justice, adjournment is granted today. However, the appellant is directed to argue the appeal on NDOH. With these directions, the application stands disposed off.

Another application is filed by appellant today under Order 39 Rule 1 and 2 CPC r/w Section 94 & 151 CPC. Copy supplied. Submissions heard.

In the application under consideration, it is alleged that the respondent no. 2 is under process to take illegal and unwarranted action to remove the malba from the site and construction of boundary wall on the area which is the subject matter of the present suit/appeal.

It is accordingly prayed that the respondent may be directed to maintain the status quo of the property till the disposal of the appeal.

Along with the application, one internal noting in respect of the suit property dated 10.08.2020 has been placed on record wherein there is noting of 02.09.2020 regarding the directions for removal of malba lying at the spot and construction of boundary wall.

During the course arguments when it was specifically questioned from the appellant that what is the issue he is having with the removal of malba from the spot, he stated that his personal belonging like plants and furniture are lying there, however, there is no such pleading in the application under consideration. Also perusal of impugned order dated 23.12.2019 clearly show that the Ld. Trial Court has recorded that suit property has already been demolished and plaintiff put out from the possession of the same. The appellant has not supported his claim of having possession of the suit property through his personal belongings by way of any documents, photographs or even pleadings. Accordingly, the only status regarding the suit property which is on record is that of malba lying there. However, appellant by way of arguments is seeking a status quo in respect of his personal belongings lying there. Unless, the status of the suit property is clearly on record, no order for status quo can be granted as prayed. The application under Order 39 Rule 1 & 2 CPC filed by the appellant is accordingly, dismissed being misconceived.

Re-notify for arguments on appeal on 14.07.2022.

Shivali Sharma

Additional District Judge-03(West)

Tis Hazari Court/07.04.2022