

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).74 OF 2015
(@SLP (C) No. 8745 OF 2014)

SANT KIRPAL SINGH

APPELLANT (S)

VERSUS

SIR SOBHA SINGH & SONS PVT LTD

RESPONDENT (S)

O R D E R

Heard learned counsel for the parties.

Leave granted.

This appeal has been filed by the appellant-defendant in the original suit proceedings initiated by the respondent-plaintiff seeking for mandatory and perpetual injunction in respect of schedule suit property. The trial court after conducting the trial answered the contentious issues framed in the suit and passed the judgment and decree in favour of the respondent-plaintiff, allowing the

relief sought for in the plaint. The appellant herein questioned the correctness of the said judgment and decree by filing a first appeal before the first appellate court. The first appellate court after hearing both the parties affirmed the judgment and decree. Thereafter, the appellant filed the regular second appeal under Section 100 of the Code of Civil Procedure before the Delhi High Court. The High Court disposed of the appeal in favour of the respondent-plaintiff. Aggrieved thereby, the appellant is before us.

The correctness of the impugned judgment and order is questioned in this appeal contending that the High Court was required to examine the regular second appeal as to whether any substantial question of law arises as framed in the memorandum of appeal by the appellant. However, instead of examining the same, the second appellate court has disposed of the appeal on the submission made by the learned counsel appearing for the appellant before the appellate court that on instructions, the appellant has agreed to vacate the premises and deliver vacant and peaceful possession to the respondent in five years' time. Learned counsel for the appellant submits that the appellant has not given any written instructions to his counsel to make such a submissions in the proceedings and the High

Court disposed of the regular second appeal granting five years' time to the appellant to vacate and deliver the vacant and peaceful possession of the premises to the respondent.

We have examined this aspect of the matter. We have perused the material available on record and the proceedings before the High Court and noticed that the proposal given by the respondent for giving time for vacating and delivering the peaceful possession was not accepted by the appellant. In the absence of written instructions to the counsel appearing for the appellant, this submissions of the learned counsel for the respondent should not have been accepted and disposal of the appeal by granting five years' time to vacate the schedule property is erroneous. Therefore, in our considered view, we feel that it would be just and proper to remit the matter to the High Court for reconsideration and examine the case on merits and decide the matter on its own merits and dispose of the same in accordance with law as expeditiously as possible.

Learned counsel for the appellant submits that electricity and water connection etc. to the schedule property are disconnected. Therefore, it is open for the appellant to approach the competent statutory

authorities for re-connection of the basic amenities like electricity, water etc. and the concerned authorities are at liberty to act expeditiously in accordance with law upon such request of the appellant keeping in view that water and electricity are basic amenities for the human being and it is a human right. The same appears to have been disconnected by the authorities is the allegation of the appellant and the litigation is pending between the parties in relation to the suit schedule property.

With the aforesaid observation, this appeal is disposed of.

.....J.
(V. GOPALA GOWDA)

.....J.
(R. BANUMATHI)

NEW DELHI,
JANUARY 07, 2015

ITEM NO.34

COURT NO.12

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 8745/2014

(Arising out of impugned final judgment and order dated 21/02/2014
in RSA No. 110/2013 passed by the High Court Of Delhi At N. Delhi)

SANT KIRPAL SINGH

Petitioner(s)

VERSUS

SIR SOBHA SINGH & SONS PVT LTD

Respondent(s)

(with interim relief and office report)

Date : 07/01/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. GOPALA GOWDA

HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Mr. Deepak Anand, Adv.

For Respondent(s) Mr. Pawan Bindra, Adv.
Ms. Aruna Gupta, Adv.UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed
order.(VINOD KR. JHA)
COURT MASTER(RENU DIWAN)
COURT MASTER

(Signed order is placed on the file)