

©-IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 575 OF 2017
(Arising out of SLP (C) No.19414 of 2012)
RAM KUMAR & ORS.

â- | APPELLANTS

VERSUS

MAHINDER NATH SHARMA(D) TR.LRS.& ORS.

â- | RESPONDENTS

O R D E R

Leave granted.

Heard Mr. R.S. Suri and Mr. Subramonium Prasad, learned senior counsel appearing for the appellants and Mr. V. Giri, learned senior counsel along with Ms. Kamaljit Kochhar, learned counsel for the respondents.

The present appeal, by special leave, calls in question the judgment dated 22.03.2012 passed by the High Court of Delhi at New Delhi in RFA No.228 of 2003. The High Court in paragraphs 28 and 29 has opined as follows :

â- S 28. Appeal is therefore accepted. Impugned judgment and decree dismissing the suit of the appellant for specific performance and decreeing the suit of the respondents for possession and mesne profits is set aside. Suit of the respondents for possession, declaration, damages, etc. shall stand dismissed. Suit of the appellant for specific performance shall stand decreed. In order to pass further orders with respect to passing of the exact directions for specific performance, since the area of the land has to be measured, I direct both the parties to

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file in Court within four weeks an agreed name of an Architect, and who can be appointed to take the exact measurement of the area of the land in possession of the appellant. I am directing the giving of a common name in order to avoid further prolongation of litigation because if an Architect as suggested by one of the party is appointed or even if an independent Architect is appointed, parties may want to file objections even with respect to the measurement, seeing bitterness of the litigation.

29. List for further proceedings on 9 th

May, 2012

and on which date counsel for both the parties will give the name of the Architect acceptable to both the parties who will be required to go to the spot and take actual measurement of the area in possession of the appellant and the land which was the subject matter of the agreement to sell dated 1.6.1979. Other related or consequential directions, will also, if so required, be passed on the next date of hearing.â- \235

In course of hearing, a suggestion was given to learned counsel for the parties to think of a settlement. Mr. Suri, learned senior counsel, very fairly stated that the possession had been given to the respondents on 1.6.1979. The dispute relates to the area of the land. Mr. Giri, learned senior counsel would submit that the respondents had got possession of 1360 sq. yards of land whereas Mr. Suri, appearing for the appellants would submit that they had given possession of the entire land of 2000 sq. yards.

Be that as it may, we do not intend to get into it. We have been apprised that the respondent is having a factory and certain appurtenant land to the factory. The respondents shall continue to remain in possession thereof and the appellants shall execute the sale deed in respect of 1360 sq. yards of land in favour of the

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