Case no. 323/2020
Rajni Garg Vs. NDMC & Ors.

10.07.2020

The matter has been heard through video conferencing.

Present: Shri Amit Vohra, Ld. Counsel for plaintiff.

The present suit has been filed by the plaintiff for mandatory injunction mainly seeking the following relief:-

(a) Pass a decree of mandatory injunction in favour of plaintiff and against the defendants, thereby, directing the defendants to demolish the illegal and unauthorized construction in the suit property bearing no. 3C/43, Plot No.43, Block 3C, situated at WEA, New Rohtak Road, Karol Bagh, New Delhi admeasuring 286 square yards.

The perusal of the jurisdiction clause reveals that plaintiff has valued the suit for the purpose of jurisdiction at Rs. 1,50,00,000/- (Rupees One Crore and Fifty Lakhs only) and relief of mandatory injunction is valued at Rs. 130/- on which the court fees of Rs. 13/- has been affixed. The query was put to the ld. Counsel for the plaintiff that why he has valued the suit for Rs. 1,50,00,000/- when the suit for simplicitor mandatory injunction with the aforesaid relief was maintainable on the value of Rs. 130/-.

The ld. Counsel for plaintiff submits that plaintiff has filed the suit before the Ld. Senior Civil Judge and the Ld. Additional Senior Civil Judge has insisted to fix the valuation of the suit for the purpose of relief at-least on the circle rate. The ld. Counsel for plaintiff submits that since the Ld.

ASCJ was of the view that the valuation as per the circle rate was to be fixed, therefore, the matter was withdrawn from the said case and now the valuation for Rs. 1,50,00,000/- has been fixed only for the purpose of jurisdiction.

In my considered view, there is no requirement of fixing the valuation as per the circle rate or even at the market rate for the relief of mandatory injunction as claimed above by the Plaintiff.

The plaintiff has earlier rightly fixed the value of Rs. 130/- so that the minimum amount of Rs. 13/- as court fees is required to be paid on the relief sought. The plaintiff has claimed in the suit that he is already in the possession of the terrace of the property in question. Furthermore, the plaintiff is not seeking any relief of possession of the property but only seeking the relief of mandatory injunction for demolishing illegal and unauthorized construction, alleged to be done by the defendants no. 3 to 8 in their respective floors, which has caused problem in sanctioning of the plan of the terrace floor by the NDMC i.e. defendant No.1. The plaintiff is seeking a command in the form of mandatory injunction against the NDMC and other defendants to do what is required to be done by them in accordance with the Delhi Municipal Act.

At the cost of repetition, I am of the considered view, the plaintiff has earlier valued the suit for the purpose of jurisdiction at Rs. 130/- before the Ld. Senior Civil Judge and the same was correct value. Moreover, Section 15 of the CPC mandates that the plaintiff is required to approach the Court of lowest grade of competent jurisdiction at first instance. Furthermore, the ld. Counsel for plaintiff submits that plaintiff cannot afford

to pay the Court fee on the valuation of Rs. 1,50,00,000/-.

The plaintiff has relied upon the judgment of ***Padmavati Mahajan Vs. Yogender Mahajan & Ors, 2008 SCC Online Delhi 982 = 2008 (152) DLT 363***. As per para No.34, the plaintiff is not required to value the suit on the market value of the property or on the circle rate in respect of mandatory injunction sought. The said judgment is squarely applicable to the facts and circumstances of the case.

The plaintiff is at liberty to withdraw the present suit and the Ld. Counsel for the plaintiff has given signed statement through E-mail ID, which is accepted by the court. The suit is dismissed as withdrawn and the plaintiff is at liberty to value the suit for the purpose of jurisdiction and Court fee in the sum of Rs. 130/- and to file the same in the competent court of law.

File be consigned to record room.

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(Arun Sukhija)
ADJ-07/Central
Tis Hazari Courts/Delhi
10.07.2020
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