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IN THE HIGH COURT OF DELHI AT NEW DELHI

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C.M. (Main) No.976 of 2007 & C.M. Appl. No.9885 of 2007

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19.01.2010

PRAKASH RATTAN LAL

.....Petitioner

Through: Mr. S.P. Jha & Mr. B.K. Jha, Advocates.

versus

MANKEY RAM

.....Respondent

Through: Mr. Sunil Chauhan, Advocate.

Date of Reserve: 15th January, 2010

Date of Order: January 19, 2010

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment? [YES]
2. To be referred to the reporter or not? [YES]
3. Whether judgment should be reported in Digest? [YES]

J U D G M E N T

1. By this petition, the petitioner has assailed order dated 7th July, 2007 passed by the learned trial court whereby the trial court allowed an application under Order XVI Rule 3 read with Section 151 CPC made by the defendant (respondent herein) and allowed the respondent to summon two more witnesses to prove land holding of the respondent being in excess of 25 *bigha* 1 *biswa* of the land.

2. It is submitted by counsel for the petitioner that the respondent, in the written statement, has taken specific stand that his total land holding was 25 *bigha* 1 *biswa* at village Bijwasan, Tehsil Mehrauli, New Delhi. An objection was taken about the maintainability of the suit filed by the petitioner (plaintiff before the trial court) on the ground that since the respondent had executed Agreement to Sell only in respect of the part of the land and not in respect of its entire holding, namely, 25 *bigha* 1 *biswa*, the

Agreement was void and not maintainable. However, in the application made before the trial court for summoning additional evidence, the respondent took the stand that he has to prove his holding in another village showing that his holding was beyond 25 *bigha* 1 *biswa* and although he had executed various Agreements to Sell in respect of entire land of 25 *bigha* 1 *biswa* in favour of the petitioner but still these Agreements to Sell were void because his holding was more than 25 *bigha* 1 *biswa*.

3. This was not the stand of the defendant in the written statement. A perusal of the written statement shows that the defendant had specifically stated that his total holding was 25 *bigha* 1 *biswa*. The defendant during evidence cannot be allowed to show that his holding was much beyond 25 *bigha* 1 *biswa*.

4. The sole purpose of pleadings is to bind the parties to a stand. When the plaintiff makes certain allegations, the defendant is supposed to disclose his defence to each and every allegation specifically and state true facts to the court and once the facts are stated by both the parties, the court has to frame issues and ask the parties to lead evidence. It is settled law that the parties can lead evidence limited to their pleadings and parties while leading evidence cannot travel beyond pleadings. If the parties are allowed to lead evidence beyond pleadings then the sacrosanctity of pleadings comes to an end and the entire purpose of filing pleadings also stand defeated. The other purpose behind this is that no party can be taken by surprise and new facts cannot be brought through evidence which have not been stated by the defendant in the written statement. The law provides a procedure for amendment of the pleadings and if there are any new facts which the party wanted to bring on record, the party can amend pleadings, but without amendment of pleadings, a party cannot be allowed to lead evidence beyond pleadings.

5. I am supported in this view by judgments of Supreme Court in *AIR (1975) 1 SCC 212; Harihar Prasad Singh & Ors. Vs. Balmiki Prasad Singh* wherein the Supreme Court has held that evidence adduced cannot travel beyond the pleadings. In *AIR (1987) 2 SCC 555; Ram Sarup Gupta by LRs Vs. Bishun Narain Inter College & Ors.*, the Supreme Court again reiterated that the evidence cannot travel beyond the pleadings.

6. I, therefore, consider that the trial court could not have allowed the application to prove something which was not recorded in the pleadings. The petition is allowed and the order of the trial court is hereby set aside.

SHIV NARAYAN DHINGRA J.

JANUARY 19, 2010

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