

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Reserve: 7th January, 2010

Date of Order: January 11, 2010

CM(M) No. 1483/2009

%

11.01.2010

Sadaqeen

... Petitioner

Through: Petitioner-in-person

Versus

Jagdish Chander & Anr.

... Respondents

JUSTICE SHIV NARAYAN DHINGRA

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

JUDGMENT

By this petition under Article 227 of the Constitution of India the petitioner has assailed an order dated 29.10.2009 whereby the learned ADJ dismissed the application of the petitioner under Order 1 Rule 10 CPC to be impleaded as a defendant in the suit on the ground that the petitioner was not a necessary party for adjudication of the issues before the Court. The petitioner has challenged the order on the ground that the trial court failed to appreciate that impleadment of the petitioner as a co-defendant was necessary as the petitioner was having direct interest in adjudication of the matter. The trial Court also ignored the fact that an injunction was granted by a competent court in favour of petitioner against respondent no.2 with regard to suit property. The trial Court also did not appreciate the real controversy between the parties concerning the suit premises and gave a wrong inference that there was no claim by the

petitioner in respect of the suit shop as tenant in either of the two suits filed by the petitioner/his father against respondent no.2.

2. It is settled law that a Court under Article 227 does not act as a Court of appeal and cannot substitute its own findings in place of findings of the trial Court. The jurisdiction under Article 227 is to be exercised carefully and only in those cases where the subordinate Court/Tribunal had acted without jurisdiction or had transgressed its jurisdiction. It is not the case here. The trial Court considered all the pleas raised by the petitioner and negated them holding that the petitioner was not a necessary party.

3. The order of the trial Court is perfectly within jurisdiction and needs no interference. The petition is hereby dismissed.

January 11, 2010
vn

SHIV NARAYAN DHINGRA, J.