

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D18934
O/kmg

_____AD3d_____

Submitted - March 24, 2008

PETER B. SKELOS, J.P.
DAVID S. RITTER
MARK C. DILLON
WILLIAM E. McCARTHY, JJ.

2007-02605

DECISION & ORDER

113-11 Partners, Inc., respondent, v
Rupnarian Surujdyal, appellant, et al., defendant.

(Index No. 10335/05)

Michael J. Reilly, Kew Gardens, N.Y., for appellant.

Borchert, Genovesi, LaSpina & Landicino, P.C., Whitestone, N.Y. (Helmut Borchert and Mark J. Krueger of counsel), for respondent.

In an action, inter alia, for a permanent injunction, the defendant Rupnarian Surujdyal appeals from an order of the Supreme Court, Queens County (Flug, J.), dated February 1, 2007, which granted the plaintiff's motion for summary judgment on the complaint and dismissing his counterclaims based on adverse possession.

ORDERED that the order is affirmed, with costs.

The plaintiff established its entitlement to summary judgment on the complaint and dismissing the appellant's counterclaims sounding in adverse possession by showing that the appellant interfered with its use of a recorded easement and had not extinguished the easement by adverse possession (*see DuMaurier v Lindsay-Bushwick Assoc. L.P.*, 39 AD3d 460, 461; *McGinley v Postel*, 37 AD3d 783; *Koudellou v Sakalis*, 29 AD3d 640, 641). The appellant, in opposition, failed to raise a triable issue of fact (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324; *Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853; *Zuckerman v City of New York*, 49 NY2d 557, 562). Thus, the Supreme Court properly granted the plaintiff's motion.

SKELOS, J.P., RITTER, DILLON and McCARTHY, JJ., concur.

ENTER:


James Edward Pelzer

April 22, 2008

113-11 PARTNERS, INC. v SURUJDYAL

Clerk of the Court

April 22, 2008

113-11 PARTNERS, INC. v SURUJDYAL