

Rami Vs. Shyo Karan and anr

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Court : Rajasthan Jodhpur

Decided On : Sep-02-2013

Appellant : Rami

Respondent : Shyo Karan and anr

Judgement :

[1] IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR
ORDER S.B. CIVIL WRIT PETITION NO.10263/2013 Rami Versus Shyo Karan &
Anr. Date of Order :

02. 09.2013 PRESENT HON'BLE MR. JUSTICE GOVIND MATHUR Mr. J.R.
Chawel for the petitioner BY THE COURT : By the order dated 08.07.2013,
learned Civil Judge (Junior Division), Nohar rejected the application preferred by
the defendant-petitioner under Order 7 Rule 11 of the Code of Civil Procedure to
reject the plaint. The submission of learned counsel for the petitioner while giving
challenge to the order aforesaid is that the suit was filed for cancellation of
adoption deed made by Rami Devi, who is said to be not in position to hear, see or
to take any positive action to execute such kind of deed. It is submitted that the
petitioner adopted respondent No.2 Rameshwar as son in the year 1985 and
thereafter the petitioner stayed with Rameshwar continuously, as such, no right is
available to the respondent- plaintiff to challenge the adoption deed. [2] I do not
find any merit in the argument advanced. It is well-settled that powers under Order
7 Rule 11 CPC can be invoked only in the circumstances that the plaintiff fails to
show any cause of action or the cause sought to be agitated is absolutely

vexatious. In the instant matter, that is not the position. As per the averments contained in the plaint, prima facie cause of action is apparent, as such, no wrong is committed by the court below while rejecting the application under Order 7 Rule 11 CPC. No interference with the order impugned is desirable. The writ petition is dismissed, accordingly. [GOVIND MATHUR],J.

Pramod

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