

Shrish Kumar Vs. Ajay Kumar

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Court : Madhya Pradesh

Decided On : Jan-24-2013

Appellant : Shrish Kumar

Respondent : Ajay Kumar

Judgement :

Writ Petition No :

20438. / 2012 Shrish Kumar versus Ajay Kumar and State of MP.

24.01.2013.

Shri M.

Adil Usmani for the petitioner.

Challenge in this writ petition under Article 227 of the Constitution is made to an interlocutory order-dated 9.11.2012, passed by Additional District Judge, Maihar, District Satna in Regular Civil Suit No.25-A/2007, whereby the learned Court has refused to take on record certain documents filed by the petitioner and rejected his application for taking the documents on record.

Petitioner is plaintiff and has filed the suit in question for specific performance of a contract dated 13.12.2007 in respect of the suit property.

The defendant/respondent has filed reply and has denied execution of the contract and says that no such contract was ever executed.

In the pending suit, petitioner filed two applications - one under Order XVIII Rule 17, and another under Order VIII Rule 3 read with section 151 of the Code of Civil Procedure.

The application under Order XVIII Rule 17 was recalling a witness Ajay Kumar, to prove the sale-deed dated 1.3.1999; and, the second application was for bringing on record the agreement and it was stated that by the said document petitioner wanted to prove that certain witness namely one Shri Arvind Kumar Jaiswal has given a false and wrong statement.

The Court has found that for proving the character of a witness the document cannot be taken on record and by holding that the witness, who has been produced, has been elaborately cross-examined and the reasons given for recalling him is No.2 Writ Petition No :

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tenable, the application is rejected.

Rejection of the application as indicated hereinabove cannot be termed as perverse or illegal warranting interference at this interlocutory stage, in a petition under Article 227 of the Constitution.

Accordingly, finding no ground for interference, the petition is dismissed.

(RAJENDRA MENON) JUDGE A.K.S/-

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