

Dadol Vs. Dadunath

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Court : Madhya Pradesh

Decided On : Jan-28-2013

Appellant : Dadol

Respondent : Dadunath

Advocate for Pet/Ap. : Shri. Vibhudhendra Mishra

Judgement :

Dadol versus Dadulaal & ORS.Writ Petition No.22003

28. 1.2013: Shri Vibhudhendra Mishra, learned counsel for the petitioner.

Challenge in this writ petition under Article 227 of the Constitution is made to an interlocutory order dated 2.11.2012 passed by the Civil Judge Class-II Teonthar, District Rewa, rejecting an application filed by petitioner under Order XXVI Rule 9 CPC for appointment of a commission.

Petitioner is plaintiff and has filed the suit in question for specific performance and in the said suit an application filed for appointment of commission for demarcation has been rejected.

A perusal of order passed by the court below goes to show that the application has been rejected on the ground that already a report of demarcation is available and at the very outset even without recording of evidence, the commission cannot be appointed.

Discretion exercised by the learned court and reasons given for rejection of application cannot be termed as perverse or illegal to such an extent that interference at this interlocutory stage is called for.

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

(Rajendra Menon) Judge ss/-

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