

R.V.Pandre Vs. Rajkumar

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Court : Madhya Pradesh

Decided On : Dec-04-2012

Appellant : R.V.Pandre

Respondent : Rajkumar

Advocate for Pet/Ap. : Shri. Rajesh Patel

Judgement :

1 W.P.19462 o

4. 12.2012 Shri Rajesh Patel, counsel for the petitioner.

Heard on the question of admission.

The petitioner/defendant No.1 has filed this petition under Article 227 of the Constitution of India for quashment of the order dated 10.10.12 Anenx.P/1 passed by I Civil Judge Class-II Bhopal in RCS No.912-A/08 dismissing his application filed under Order 13 rule 10 of the CPC for calling some record from the record of respondent No.5 Society.

In the couRs.of argument on admission on asking from the counsel whether after obtaining the copy of such proceedings or the resolution passed in the General Meeting or the Special Meeting of the Society were annexed along with the application under Order 13 rule 10 of the CPC or prior to it, the same was filed before the trial court, on which, he fairly submits that no such copies were

annexed or filed before such court as the same was not made available to the petitioner.

On asking the petitioner counsel in which manner he tried to obtained such certified copies and was not made available.

In this regard to show the bonafide, any document was filed before the trial court then again he submits that no such documents were filed.

In such circumstances specially in the lack of copy of such documents, I am of the view that the trial court has not committed any error in passing the impugned order dismissing the petitioner's application.

Hence such order is hereby affirmed.

Before parting with the matter, in the available scenario, I deem fit to extend the liberty to to the petitioner to file fresh application under order 13 rule 10 of the CPC before the trial court along with the copies of the alleged document, resolution after obtaining the same through RTI or other process and if the same is not made available then the petitioner shall file the application stating the efforts made by the petitioner to get the copies of such documents and the trial court is directed that on filing such application along with the papeRs.as stated above, the same be considered and decided afresh without being influenced from any observation or the findings given by such court in the order impugned or by this court in the present order.

The petition is dismissed with aforesaid observation, liberty and direction.

C.C as per rules.

(U.C.Maheshwari) Judge MKL

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