

Abdul Saeed Vs. Abdul Wahid

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Court : Madhya Pradesh

Decided On : Apr-12-2013

Appellant : Abdul Saeed

Respondent : Abdul Wahid

Advocate for Def. : Shri. Mohd. Ali

Advocate for Pet/Ap. : Shri. Pranay Verma

Judgement :

1 W.P.No.2770/2013 12/4/2013: Shri Pranay Verma, learned counsel for the petitioner.

Shri Mohd.

Ali, learned counsel for respondent No.1.

Shri Sanjeev Kumar Singh, learned Panel Lawyer for the State.

Challenging an interlocutory order Annexure P/8 dated 31.1.2013 passed by Civil Judge, Class I, Bina in Civil Suit No.160A/2010 rejecting an application filed by the petitioner under Order 7 Rule 14 of CPC for taking on record certain documents having been rejected, this writ petition has been filed.

Petitioner and defendant No.1 are real brothers and dispute in question pertains to certain agricultural land.

The suit is pending between the brothers. In this suit petitioner wants to bring on record certain documents which are available in the record of another suit.

Petitioner obtained certified copy of these documents and filed it in the suit in question.

Certified copy of the documents are refused to be taken on record mainly on the ground that petitioner can withdraw the documents from the suit pending and can file it in the suit in question and holding that certified copy of the documents are not public documents, application is rejected.

However, while doing so learned Court below has failed to consider the fact that petitioner is not the plaintiff nor a party in the other suit bearing Civil Suit No.51-A/2010.

Another brother of the petitioner one Abdul Aziz is the plaintiff and therefore, it is seen that the application of the petitioner has been rejected on the misapprehension that the petitioner is the plaintiff in the other suit also.

It is also seen that the original documents in the said suit have been filed by Abdul Aziz and therefore, petitioner could not be in position to withdraw the original documents.

That apart, the documents are certified copy of the documents available on record in other suit.

The said documents 2 have already been taken on record in the other suit and therefore, this question has also not been considered by the Court below.

Keeping in view the aforesaid, it is thought appropriate to grant liberty to the petitioner to file an application for taking additional documents on record mentioning the facts as are indicated in the writ petition and on the same being done, learned Court below is directed to reconsider the application and decide it again in accordance to law after taking note of the correct factual position with regard to both the suits as is brought on record.

With the aforesaid liberty to the petitioner, this petition stands disposed of.

c.c.as per rules.

(Rajendra Menon) Judge Mrs.mishra

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