

Brajesh Kumar Vs. Santosh Kumar

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Court : Madhya Pradesh

Decided On : Sep-19-2013

Appellant : Brajesh Kumar

Respondent : Santosh Kumar

Advocate for Def. : Shri. Vivek Rusia

Advocate for Pet/Ap. : Shri. R.S.Tiwari

Judgement :

1 W.P.No.15473/2013 (I) 19.9.2013.

Shri R.S.Tiwari, learned counsel for the petitioner.

Shri Vivek Rusia, learned counsel for respondent No.1 & 2.

Heard on the question of admission.

The petitioner/plaintiff has filed this petition under Article 227 of the Constitution of India being aggrieved by the order dated 12.8.2013 (Ann.

P.9) passed by the 1st Additional District Judge, Burhanpur in Misc.

Appeal No.7-A/13, affirming the order dated 18.5.2013 passed by 2nd Civil Judge, Class-II, Burhanpur, whereby his application filed under Order 39 Rule 1 and 2 r/w Section 151 of CPC for issuing ad-interim injunction against the respondents/

defendants has been dismissed.

In the couRs.of the arguments in view of earlier decision of this Court in the matter of Pyarelal versus Nandlal reported in 1982 MPWN 27 so also in view of the provision of Section 41 (h) of Specific Relief Act and in the light of Section 52 of T.P.Act on making certain query, on which instead to argue further the counsel seeks permission to withdraw this petition with liberty to file appropriate application before the trial Court, if the same is necessary either to amend the suit or to withdraw such suit with liberty to file fresh suit with some additional facts and the prayer.

Other side did not have any objection in permitting the petitioner to withdraw this petition with aforesaid liberty but he said that if any such application is filed then respondents be extended a liberty to oppose the same in accordance with the procedure prescribed under the law.

2 In view of the aforesaid without expressing any opinion on merits of the matter by allowing the prayer of the petitioner, this petition is dismissed as withdrawn as not pressed with aforesaid liberties to both the parties, as prayed by their respective counsel.C.C.

as per rules.

(U.C.Maheshwari) Judge k

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