

Arvind Kumar Vs. Rakesh Singhai

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Court : Madhya Pradesh

Decided On : Feb-22-2013

Appellant : Arvind Kumar

Respondent : Rakesh Singhai

Judgement :

Writ Petition No :

19432. / 2012 Arvind Kumar versus Rakesh Sighai and another 22.02.2013.

Shri Abhijit Bhoumick for the petitioner.

This petition was filed on 9.11.2012, it is yet to be admitted and even notices have not been issued.

Petitioner is defendant and has filed this writ petition challenging an order-dated 18.10.2012, passed by Civil Judge Class I, Bina in Civil Suit No.163-A/2010, rejecting an application for amendment filed by the petitioner.

Respondent No.1/plaintiff has filed the suit in question for declaration of his Bhumiswami right and permanent injunction.

Petitioner had filed the application for amendment and the same has been rejected by the learned court.

By the amendment petitioner wanted to incorporate a pleading to the effect that, on 10.10.2012, the plaintiff has dispossessed the petitioner from the area in question and, therefore, petitioner wanted to amend the pleadings and seek restoration of possession.

The Court has taken note of the application and found that the suit is pending since 2007 and for the present both the parties are in possession of their respective area and an injunction has been granted to the plaintiff in a proceeding held under Order 39 Rules 1 and 2, in the year 2007.

Appeal and writ petition filed have also been dismissed and direction for status quo has been passed by the High Court in a writ petition.

It is stated that even though time has been granted to the defendant/petitioner to lead evidence, but till 26.9.2012 evidence has not been led and the matter is being prolonged.

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19432. / 2012 Arvind Kumar versus Rakesh Sighai and another Finding that the application has been filed for delaying the proceedings, the application is rejected.

Rejection of the application for the reasons as indicated hereinabove cannot be termed as perverse, illegal or erroneous to such an extent that interference at this interlocutory stage in a proceeding under Article 227 of the Constitution is called for.

Accordingly, finding no ground to interfere the petition is dismissed.

(RAJENDRA MENON) JUDGE Aks/-

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