

ishaq Ahmed Vs. Project Director Project Implementation Unit

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Court : Madhya Pradesh

Decided On : Oct-04-2013

Appellant : ishaq Ahmed

Respondent : Project Director Project Implementation Unit

Advocate for Pet/Ap. : Shri. Jaideep Sirpurkar

Judgement :

1 W.P.No.15736/2013.

3.10.2013.

Shri Jaideep Sirpurkar, learned counsel for the petitioners. Shri A.K. Chourasiya, learned G.A. for the respondent No.3.

Heard on the question of admission.

The petitioners/plaintiffs have filed this petition under Article 227 of the Constitution of India being aggrieved by the order dated 26.8.2013 (Ann.

P.7). passed by 3rd Civil Judge, class-II, Betul in C.S.No.68-A/2013, where by their application filed under Order 26 Rule 9 of CPC for issuing additional direction to the appointed Commissioner for inspecting the site and submitting the report has been dismissed.

In the course of the argument on asking the petitioner's counsel whether the Commissioner has inspected the site under execution of the Commissioner warrant or not, on which he fairly submits that inspection has been made and report has also been submitted by the Commissioner before the trial Court and now the case is fixed for filing the objection of the parties on 7.10.2013.

In view of such status of the case on asking the counsel how the additional instructions could be given to the Commissioner when the Commission has already been executed, on which the counsel seeks permission to withdraw this petition with liberty to raise the objections with respect of the Commissioner's report before the trial Court and subject to outcome of such objection on arising the occasion to file a separate writ petition under Article 227 of the Constitution of India with a further prayer to extend a liberty to the petitioner to file the fresh application for appointment of 2 Commissioner after recording the evidence of both the parties in the matter in order to rectify the ambiguity of the evidence, which may come in such evidence.

In view of aforesaid submission, without expressing any opinion on merits or demerits either on the impugned order or on the objections and grounds stated in the petition, this petition is hereby dismissed with aforesaid both the liberties to the petitioners.C.C.

as per rules.

(U.C.Maheshwari) Judge k

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