

Damodar Vs. Pradeep Kumar

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Court : Madhya Pradesh

Decided On : Oct-04-2013

Appellant : Damodar

Respondent : Pradeep Kumar

Advocate for Pet/Ap. : Shri. J.K.Verma

Judgement :

1 W.P.No.16241/2013.

4.10.2013.

Shri J.K.Verma, learned counsel for the petitioner.

Heard on the question of admission.

The petitioner/ plaintiff has filed this petition being aggrieved by the order dated 26.4.2013 (Ann.

P.13) and order dated 16.8.2013 (Ann.

P.16) passed by 1st Additional District Judge, Sagar in Co.No.17-A/2010, whereby his application filed under Order 7 Rule 14 of CPC for producing some certified copy of KhaSr.and order of some Election Commission and the application of Order 6 Rule 17 of CPC to amend the plaint with respect of aforesaid KhaSr.have been dismissed respectively by the above mentioned ordeRs.Having heard the

counsel at length keeping in view his arguments after perusing the papers placed on record, I have found that the impugned orders have been passed under the vested discretionary jurisdiction of such Court.

In such premises the impugned order does not require any interference under the superintending jurisdiction of this court vested under Article 227 of the Constitution of India, as laid down by the Apex Court in the matter of The Managing Director (MIG) Hindustan Aeronautics Ltd versus Ajit Prasad Tarway reported in AIR1973S.C.76.

Apart the aforesaid in view of the principle laid down by the Apex Court in the matter of Ajendra Prasad N.

Pandey versus Swami Keshav Prakesh Dasji N.

reported in (2006) 12 SCC1 the amendment application could not be allowed at later stage in the matter if the facts proposed in the amendment application were in the knowledge of the concerning party from the date of filing the plaint 2 or the written statement, as the case may be.

It is apparent in the case at hand that the facts proposed by the petitioner in the impugned application for amendment were very well in the knowledge of the petitioner/ plaintiff on the date of filing the suit but the same was not pleaded and after closing the evidence of plaintiff such application was filed at very belated stage.

In such premises the trial Court has not committed any error in dismissing the application of the petitioner filed under Order 6 Rule 17 of CPC.

So far dismissal of application of Order 7 Rule 14 (3) of CPC is concerned, true it is under such provision if the documents were very well available with the party or in the knowledge of the party and same were not filed at the initial stage then same could not be taken on record at later stage but in the available scenario, I am apprised by the petitioner's counsel that certified copy of the KhaSr.and the order of Election Commission filed with the impugned application of Order 7 Rule 14 (3) of CPC being copy of public document could be taken on record by the

Court at any stage of the case without any application and in such premises the same could be taken in to consideration while deciding the matter on merits.

I am of the considered view that if the documents filed are covered with the definition of public document defined under Section 76 of Evidence Act then the Court is bound to take into consideration the same and for that no application to take the same on record is required.

So, in such premises the trial Court is directed to consider the copy of KhaSr.issued by the revenue officials and the order of Election Commission covered by Section 76 of 3 Evidence Act, (as submitted by the petitioner's counsel) while deciding the case on merits.

Till this extent the impugned order is modified while the remaining part is hereby affirmed.

The petition is disposed of accordingly.C.C.

as per rules.

(U.C.Maheshwari) Judge k

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