

Mohanchand Vs. Mitthulal

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Court : Madhya Pradesh

Decided On : Oct-08-2013

Appellant : Mohanchand

Respondent : Mitthulal

Advocate for Pet/Ap. : Shri. Pushpendra Yadav

Judgement :

1 W.P.No.15325/13.

8.10.2013.

Shri Pushpendra Yadav, learned counsel for the petitioner.

Heard on the question of admission.

The petitioner/ has filed this petition under Article 227 of the Constitution of India being aggrieved by the order dated 6.9.2012 (Ann.

P.4).passed by Civil Judge Class-II, Goharganj, District Raisen in Co.No.102-A/2011, whereby his application filed under Section 151 of CPC for grant of stay against further trial of such suit till pendency of W.P.No.4793/12, in which the same question is involved, has been dismissed.

It is apparent that the writ petition was filed earlier to the suit by one Hari Ram, who is not a party in the Civil Suit and as per submission of the counsel the

property and nature of dispute till some extent are same but the petitioner of such writ petition has not been impleaded as party in the suit.

In the couRs.of argument in response of some query of the Court the petitioner's counsel at this stage seeks permission to withdraw this petition with liberty to file appropriate application for grant of stay against further proceeding of aforesaid civil original suit in the above mentioned writ petition with a further prayer to file some application to implead said Hari Ram in the suit before the trial Court and subject to out come of the same to revive the application for staying the proceeding of the suit.

Considering aforesaid prayer, without expressing any opinion on merits or demerits on the impugned order, this petition is hereby dismissed as withdrawn and not pressed with liberties aforesaid, as prayed.

2 It is made clear that this order shall not come in the way of any of the parties to file appropriate application to implead the petitioner of the aforesaid writ petition, as party in the civil original suit and on filing such application the same shall be considered and decided in accordance with the procedure prescribed under the law and subject to out come of such application the petitioner shall be at liberty to file fresh application for grant of stay against further proceeding of the civil suit and the same shall be considered by the trial Court in accordance with law on its own merits without influencing from any observations and findings of the impugned order.C.C.

as per rules.

(U.C.Maheshwari) Judge k

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