

Rajendra Singh Vs. Kusuma Devi

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Court : Madhya Pradesh

Decided On : Dec-01-1994

Reported in : II(1995)ACC84

Judge : T.S. Doabia, J.

Appellant : Rajendra Singh

Respondent : Kusuma Devi

Judgement :

T.S. Doabia, J.

1. A suit filed by respondents Nos. 1 to 5 in the year 1985 is still at the preliminary stage. One Maharaj Singh was murdered. His widow and his daughters filed a suit for compensation. Court fee was not paid. Exemption was sought from the payment of Court fee in view of the notification issued by the State of Madhya Pradesh under Section 35 of the Court Fees Act, 1870. This exemption is available to the women whose income is less than Rs. 6,000/-. The Trial Court came to the conclusion that a case has been made for exemption and it is that order which has been challenged in this revision petition.

2. The learned Counsel appearing for the petitioner has stated that the Court below did not follow proper procedure in the matter of grant of exemption. It is the basic contention that the notice was required to be given to the Collector. He

further stated that as laid down by a Division Bench of this Court in Ramji Sharma v. High Court of M.P. and Ors. 1989 JLJ 237 procedure indicated in the above case, should have been followed. He has also placed reliance on a decision given in K.M. Nizam and Anr. v. Union Bank of India and Ors.

3. The learned Counsel for the plaintiff-respondents has stated that this petition is not maintainable. This is a matter which is between the State and the plaintiffs and the defendant does not come in. For this reliance has been placed on a decision given by this Court in Vimal Chand and Anr. v. Smt. Gyanmala 1988 JLJ 526 and Kishan v. Godawaribai 1988 MPWN, Vol. II, Note 65.

4. I have considered the matter. It may be seen that in this case issue framed i.e. No.5-A, was specific on the point whether the income of the plaintiffs individually is less than Rs. 6,000/- a year with a view to prove this issue the Patwari of the area was examined. He categorically stated that there is no land in the name of the plaintiffs. The Naib Tahsildar was also summoned as a witness. He has also supported the case of the plaintiffs.

5. It may be seen that the Patwari has categorically stated in his statement that he is making the statement after going through the record. Apart from this, the father-in-law of plaintiff No. 1 has also put in appearance. He has also stated that there is no land in the name of any of the plaintiffs. In this view of the matter the Trial Court has taken all precautions in the matter of determining the income of the plaintiffs. The issue was decided after examining the revenue officer and a finding has been recorded.

6. This revision petition is without any merit and is dismissed with costs. Cost Rs. 250/-.

7. The suit is pending since 1985. As such, a direction is given to the Trial Court to decide the same within a period of one year. Revision petition dismissed