

Kaluram Vs. Shakuntala Devi

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SooperKanoon Citation : sooperkanoon.com/750536

Court : Rajasthan

Decided On : Jul-23-1990

Reported in : AIR1992Raj6; 1991(2)WLN505

Judge : N.C. Kochhar, J.

Acts : [Code of Civil Procedure \(CPC\) , 1908](#) - Order 6, Rule 17

Appeal No. : Civil Revision Petition No. 881 of 1989

Appellant : Kaluram

Respondent : Shakuntala Devi

Advocate for Def. : J.C. Jain, Adv.

Advocate for Pet/Ap. : G.D. Parwal, Adv. for; N.K. Maloo, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

N.C. Kochhar, J.

1. A suit filed by the plainliff-respondent for ejectment of defendant peti-tioner from the shop in dispute is pending inthe court of the learned Munsiff, Ajmer. Afterframing the issues, the learned trial court hasrecorded the evidence of the

parties and the case is fixed for hearing final arguments. Before the arguments could be heard, the defendant petitioner moved an application under Order 6, Rule 17 of the C.P.C. (the Code) stating that he had learnt that the plaintiff had applied to the Municipal Council, Ajmer for permission to construct additional shops on the land adjacent to the shop in dispute and that the defendant wanted to amend his written statement so as to bring on record this subsequent event. He thus prayed that he be allowed to amend his written statement. The application was opposed by the plaintiff respondent who denied that any permission was asked for construction of additional shops as alleged. This reply is supported by an affidavit filed by the plaintiff. After hearing the learned counsel for the parties, the learned trial court vide the impugned order dt. 13-9-1989 has dismissed the application of the defendant, who has filed this revision petition in this court.

2. Admittedly in the application under Order 6, Rule 17 of the Code the source of information of the defendant-applicant in regard to the plaintiff having applied for permission to construct the shop had not been given. The same was the position in regard to affidavit filed in support of the application. 'The defendant did not file any documentary evidence' in the form of the copy of the site plan said to have been submitted by the plaintiff in the office of the Municipal Council. The plaintiff specifically denied that any such permission had been sought for and supported this fact by an affidavit.

3. The court while dealing with an application under Order 6 Rule 17 of the Code has also to see whether the application has been made bona fide. It appears that after taking adjournments for addressing arguments, the petitioner has moved this application with a view to delay the decision of the suit. The learned trial Court has given good reasons for dismissing the application and in my view no interference is called for.

4. The revision petition, therefore, fails and is dismissed with costs.