

Gopal Vs. Hira Chand and ors.

Gopal Vs. Hira Chand and ors.

SooperKanoon Citation : sooperkanoon.com/751304

Court : Rajasthan

Decided On : Aug-17-1993

Reported in : AIR1994Raj110

Judge : Milap Chandra Jain, J.

Acts : [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 115 - Order 13, Rules 1 and 2

Appeal No. : Civil Revn. Petn. No. 403 of 1992

Appellant : Gopal

Respondent : Hira Chand and ors.

Advocate for Def. : R.K. Thanvi, Adv.

Advocate for Pet/Ap. : Prakash Tatia, Adv.

Disposition : Revision dismissed

Judgement :

ORDER

Milap Chandra Jain, J.

1. This revision petition has been filed against the order of the learned Munsif, Bhilwara dated May 23, 1992 by which he refused to take on record the certified

copies of the application moved by the defendant-petitioner under Section 19A, Rajasthan Premises (Control of Rent and Eviction) Act, 1950 (hereinafter to be called 'the Act'), power (vakalatnama) and order passed thereon.

2. It has been contended by the learned counsel for the defendant-petitioner that the learned trial court acted illegally and with material irregularity in the exercise of its jurisdiction in passing the impugned order. He further contended that the trial court did not consider that the documents were certified copies taken from the public record and they were relevant for the correct decision of the issue No. 3 relating to the arrears of rent outstanding against him.

3. In reply, it has been contended by the learned counsel for the plaintiff-non-petitioners that the defendant-petitioner has not averred in his written statement that he had deposited the rent under Section 19A of the Act or paid it to the plaintiffs in any manner. He further contended that his case is that he is not the tenant of the plaintiff-non-petitioners and these documents do not find mention in the list of reliance. He lastly contended that no explanation has been given for the inordinate delay in filing these documents.

4. There is no substance in the revision petition. Admittedly, the defendant-petitioner has not averred in his written statement that he deposited rent under Section 19A of the Act or paid it to the plaintiffs in any other manner. His case is that he is not the tenant of the plaintiff-non-petitioners. It is also not in dispute that no list of reliance was filed by him mentioning these documents in it as required under Order VIII, Rule 2, C.P.C. The plaintiff and his witnesses were not confronted with these documents during their cross-examination, it cannot, therefore, be said that the defendant-petitioner relied upon these documents within the meaning of Order XIII, Rule 1, C.P.C.

5. The defendant-petitioner has utterly failed to explain the inordinate delay in filing the certified copies. Under Order XIII, Rule 2 C.P.C. only these documents can be taken on record on which the party intend to rely upon them and has shown good cause for their non-production earlier.

6. There is yet another aspect of the matter. Jurisdiction of this Court is very limited under Section 115, C.P.C. Reference of Hindustan Aeronautics Ltd. v. Ajit Prasad AIR 1973 SC 76 para 5, may be made here.

7. Consequently, the revision petition is dismissed. No order as to costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com