

Hari Ram Vs. Ratanlal

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Court : Rajasthan

Decided On : Aug-02-1979

Reported in : AIR1980Raj82

Judge : P.D. Kudal, J.

Acts : Rajasthan High Court Rules, 1952 - Rule 159

Appeal No. : Civil Writ Petn. No. 629 of 1979

Appellant : Hari Ram

Respondent : Ratanlal

Advocate for Def. : D.C. Sharma and; N.K. Jain, Advs.

Advocate for Pet/Ap. : M.R. Calla, Adv.

Judgement :

ORDER

P.D. Kudal, J.

1. Arguments were heard on the application dated 27-7-1979, filed on behalf of the respondent Ratanlal.

2. The contention of the respondent is that he had filed caveat on 23-7-1979. The writ petition was filed on 25-7-1979, and listed for admission on 26-7-1979 and

was as shown in the cause-list. The names of Sarvashri D.C. Sharma and N.K. Jain, Advocates for the respondent No. 1 'were not shown in the cause-list. The writ petition was heard and admitted for hearing. On hearing the stay petition, the operation of the impugned order Ex. 22 was stayed for a period of two weeks.

3. Shri Calla appearing on behalf of the petitioner states that, though, caveat had been filed on behalf of the respondent No. 1, yet if the writ petition has been heard and admitted for hearing there is no reason why the order of admission dated 26-7-1979 should be recalled. He further contends that the stay order issued on 26-7-1979 also should not be recalled for the same reasons. He has further contended that the respondent No. 1 Ratanlal was present in the Court when the writ petition was being heard and orders for stay were passed. He further contended that Ratan Lal tried to overreach the process of the Court.

4. Rule 159 of the Rajasthan High Court Rules, 1952 provides that where an appeal, petition or application is expected to be lodged, or has been lodged but is pending admission, any person claiming a right to appear before the Court on the hearing of such appeal, petition or application may lodge a caveat in the matter thereof, and shall thereupon be entitled to receive from the Registrar notice of the lodging of the appeal, petition or application. Rule 159 (4) provides that where a caveat has been lodged as aforesaid, notice of the hearing of the appeal, petition or application shall be given to the caveator.

5. In the instant case, no responsibility can be laid on the petitioner that notice to the respondent on whose behalf caveat had been filed was not given. In the Instant case, it appears to be an act of omission on the part of the Registry. Once the caveat had been filed, the names of the Advocates for the respondent ought to have appeared in the cause list. It is a settled principle of jurisprudence that nobody can be prejudiced by the acts and omissions of a Court of Law. The fault on the part of the Registry comes within the ambit of acts and omissions of this Court. In view of this settled proposition of law, the respondent Ratanlal had a right to be heard before the admission of the writ petition could be ordered. In this view of the matter, the order dated 26-7-1979, admitting the writ petition for hearing is hereby recalled. As the writ petition relates to an election matter, its urgency

cannot be disputed. The writ petition shall be listed for admission on 3-8-1979.

6. The order of stay issued on 26-7-1979 is accordingly also recalled. The stay application shall also be listed for order on 3-8-1979 along with the main file. This matter may be listed as case' No. I for admission.

7. Before parting with this order, it must be stressed on the Registry that steps should be taken to ensure that in future, no such lapses occur when caveat is filed in the matter. The Additional Registrar shall take necessary steps to ensure that such recurrence does not happen in future again.

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