

Rseb Vs. Rambabu

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Court : Rajasthan

Decided On : Feb-05-1987

Reported in : 2(1989)WLN(Rev)434

Judge : J.S. Verma, C.J.

Appeal No. : S.B. Civil Revision No. 336 of 1980

Appellant : Rseb

Respondent : Rambabu

Disposition : Petition dismissed

Judgement :

J.S. Verma, C.J.

1. This is a defendants' revision against the appellate order holding that the suit is cognizable by a civil court. The trial court had upheld the defendants' objection that the suit can be tried only by a revenue court, but that view has been reversed in appeal by the District Court. Hence this revision by the defendants.

2. Admittedly, the defendants' objection to the cognizance of the suit by a civil court is to be decided at this stage only on the basis of the plaint averments, since the trial has not proceeded further. Reading the plaint as a whole, the appellate court has rightly reached the conclusion that the suit is cognizable by a civil court

and is not barred by virtue of Section 207 of the Rajasthan Tenancy Act.

3. The contention of the learned Advocate General appearing for the petitioners is that the reliefs claimed in the suit can be granted by a revenue court under Sections 91 and 92-A of the Rajasthan Tenancy Act, and, therefore, its cognizance by virtue of Section 207 read with the corresponding entries IE the third schedule to the Act I am unable to accept this contention. A bare perusal of Section 91 and 92-A of the Act is sufficient to indicate that they provide for suits in which the plaintiff claims any right conferred by the Rajasthan Tenancy Act, and they do not govern a suit like the present in which the right and the relief claimed by the plaintiff is not to be decided under the provisions of the Rajasthan Tenancy Act. In substance, the plaintiff's suit is that the suit land is not an agricultural land; that the entries to this effect in the revenue record are illegal; that the allotment of the land by the revenue authorities treating it as an agricultural land to the Rajasthan State Electricity Board is not within the ambit of the said Act; and that the suit land has some shops and a part of the building constructed therein which are owned by the plaintiff not as an agriculturist but as an owner under the general law. It is on this basis that the plaintiff has claimed declaration of his title to the suit land describing it as an Abadi land and also claimed the consequential relief of perpetual injunction. As earlier stated, at this stage the question of jurisdiction of the civil court to try such a suit has to be determined only on the basis of plaintiff averments, as summarised earlier. There is thus no ground to hold that on the basis of these plaintiff averments the suit is not cognizable by a civil court, and that the same can be tried only by a revenue court. No doubt, it would be open to the defendants to show on merits during the trial that the averments made in the plaintiff are not correct and that the real facts being otherwise, the provisions of the Rajasthan Tenancy Act are attracted, as claimed by the defendants. The question of jurisdiction at the end of the trial will, therefore, depend on the facts found proved as a result of the trial on the pleadings of the parties. But, at this stage, what the question is to be decided only on the basis of pleadings, it cannot be said that there is any infirmity in the conclusion reached by the appellate court.

4. Consequently, the revision is dismissed with costs. The counsel's fee Re. 200/-, is certified. The record of the court below shall be returned forthwith. The parties

shall appear in the trial on 2-3-1987 to seek further directions. The trial court shall disposed of the suit as expeditiously as possible.

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