

Birendra Singh Vs. Narendra Kumar and ors.

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Court : Rajasthan

Decided On : Mar-29-1988

Reported in : 1988WLN(UC)199

Judge : Mohini Kapoor, J.

Appeal No. : S.B. Civil Revision Petition No. 216 of 1888

Appellant : Birendra Singh

Respondent : Narendra Kumar and ors.

Disposition : Petition dismissed

Judgement :

Mohini Kapoor, J.

1. The petitioner's application for being impleaded as a party in a suit for rent and eviction filed by non-petitioners No. 1, 2 and 3 against non-petitioner No. 5, was rejected by the Munsif and Judicial Magistrate Kota (South), by order dated 4-1-1988. He placed reliance on 1982 (1) RCJ 590 in arriving at this conclusion. The petitioner has come up in revision against this order.

2. From what can be found out from the revision petition and also the order of the court below, it can be said that the petitioner is the purchaser of the property from one Chandra Prakash son of Devi Das. Plaintiffs in the ' suit are also sons of

Devidas by another wife. So, the real dispute appears to be between the four sons of Devidas as to who is the owner of the property and whether Chandra Prakash alone could sell the property to the present petitioner. All these matters do not arise in a suit for rent and ejectment where the only thing that has to be considered is whether the plaintiffs are the Land lord of the defendant-non-petitioner. Petitioner's title does not come in anywhere in this case and he cannot be said to be a necessary party. His claim that he is the landlord of the defendant will ultimately involve the question of title. Rajasthan authority cited above is fully applicable to the matter.

3. Learned Lower court has not committed any jurisdictional error so as to call for interference in this revision. It is accordingly dismissed.

4. After dictating the above learned Counsel for the petitioner (who is on strike, along with other Advocates) submitted a list of authorities and I consider it proper to discuss them here.

5. Order 1, Rule 10(2), CPC provides that the court may strike out or add parties at any stage of the proceedings, either on the application of a party or suo moto, when the presence of the parties can be said to be necessary in order to enable the court effectually and completely adjudicate upon and settle all the questions involved in the suit. Some of the decision relied upon are: Sant Ram v. Abdul Haq 1971 RCR 192; South Asia Industries Private Ltd. v. Sarup Singh and Ors. AIR 1969 SC 346; Harbans Singh and Ors. v. E.R. Srinivasan and Anr. : AIR1979 Delhi171 and Sanwar Mal v. Budh Mal 1983 RLW 240. These are cases in which persons alleged to be sub-tenants were impleaded as parties to the suit as they were considered to be proper parties.

6. The other decisions cited are: Murlidhar v. Krishi Upaj Mandi Samiti, Alwar 1978 RLW 34; Razia Begum v. Sahebzadi Anwar Begum and Ors. : [1959]1SCR1111 ; Gouri Shanker v. Jabbar Singh 1984 RLW 51 and Khaja Abdul Khader v. Mahabub Saheb and Ors. : AIR 1979 AP152 . They deal with the question of impleading a third party to the suit, but these cases relate to matters where the relief claimed was either declaration and injunction or possession over the property on the basis of title.

7. Two decisions which can be said to be favourable to petitioner are, *Vidya Sagar v. Kesho Kumar and Anr.* 1979 (2) RCR 612 and *R. Rulsi v. Homed Bi and Ors.* : AIR1972 Mad61 . In *Punjab and Haryana's case* (1979(2) RCR 612), the trial court exercised its discretion in impleading a person, claiming rival title, as a party to the suit for eviction, and this discretion was not interfered with by the High Court in revision.

8. In *Brij Mohan Lal Bhargava v. Shrimati Lila Bai and Anr.* it has been observed that the scope in suits for ejectment is a limited one and the questions which would be involved in such suits between the plaintiffs and the defendants alone need to be decided and the areas could not be widened by the addition of a third party in the suit unless the third party shows a direct and immediate interest in the property involved in the suit. In a suit for ejectment and for recovery of arrears of rent, a third party moved an application for being impleaded as a party contending that the sale made by him was benami, he was not allowed to be impleaded as a party.

9. In *Urban Improvement Trust v. Raj Kumar and Ors.* , the suit for ejectment was not allowed to be converted into a suit for title by impleading a party claiming title to the property.

10. The Madhya Pradesh High Court in *Smt. Surgrabi v. Hari Ram and Ors.* 1983 (1) RCJ 623 upheld the decision of the trial which rejected the petitioner's application for being joined as a party. In this case the purchaser from the original owner had instituted a suit for eviction and the sister of the original owner wanted to be impleaded as a party to the ejectment suit. It was observed that the question of avoiding multiplicity of the proceedings did not arise. In this case the petitioner cannot be allowed to be made a party merely because the tenants in the property had denied the plaintiff to be his landlord.

11. As observed above if the petitioner is allowed to be impleaded as a party the real dispute in this case would be whether the petitioner has derived a valid title by purchase of property from one of the sons of previous owner and such enquiry cannot be said to be necessary in the present case, which is only for eviction. The learned lower court has exercised its discretion after taking into consideration all

these factors and this exercise of discretion does not amount to jurisdictional error so as to call for interference.

12. For all these reasons the revision petition is dismissed summarily.

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