

Ramji Lal Vs. Durga Lal

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Court : Rajasthan

Decided On : Nov-26-1988

Reported in : 1988WLN(UC)417

Judge : I.S. Israni, J.

Appeal No. : S.B. Civil Revision No. 81 of 1988

Appellant : Ramji Lal

Respondent : Durga Lal

Advocate for Pet/Ap. : Shri. Goyal

Disposition : Application allowed

Judgement :

I.S. Israni, J.

1. This civil revision petition under Section 115, CPC has been filed against the order dated 28-10-1987 passed by learned Munsif and Judicial Magistrate, Karauli in Civil Suit No. 62/1982.

2. A suit was filed by the plaintiffs-non-petitioners claiming issue of permanent injunction against the petitioners-defendants to restrain them from opening spout or put any terrish towards the disputed land mentioned in paras Nos. 1 and 2 of

the plaint and also for removal of the construction. The trial court framed issue No. I whether the disputed land/gali is of ownership and in possession of the plaintiffs-non-petitioners.

3. An application under Order 13, Rule 2, CPC was filed on 9-10-1987 praying that two documents i.e. a letter dated 31-7-1987 of Assistant Commissioner, Devsthan and a certified copy of judgment of Assistant Commissioner, Devsthan may be permitted to be taken on record. The trial court after hearing both the parties, dismissed the application vide order dated 28th October, 1987.

4. The contention of Shri Goyal, learned Counsel for the petitioners-defendants is that the documents are above suspicion. He also states that he does not want to produce any evidence in support of the documents and therefore, there will be no delay in disposing of the suit which is on the stage of hearing for final disposal.

5. Reliance has been placed on case of Municipal Council Bharatpur v. Gokul Chand and Anr. 1987 (2) RLR 248, in which it was held that since the documents are certified copies of judgments of various courts and relate to land in dispute in the suit itself, should have been allowed by the trial court to be taken in evidence. Reliance has also been placed on case of Gyani Ram v. Gulab Chand 1960 RLW (2) 321.

6. The contention of S.K. Gupta, learned Counsel for the non-petitioner-plaintiffs is that the documents are filed at belated stage and according to him are not relevant for the purpose of the dispute between the parties in the suit pending in the trial court, even though he does not suspect the genuineness of the documents.

7. The procedure has been laid down with a view to do substantial justice with the parties and not to penalize for any delays that may be caused on account of some circumstances many a times beyond the control of the parties. In this case since the documents are above suspicion and the petitioners-defendants do not want to produce any evidence in support thereof therefore, there is no likelihood of any delay in disposal of the suit. So far as the impact of the documents on the dispute between the parties will be seen by the trial court at the time of deciding the suit itself. In above view I am inclined to allow the application under Order 13, Rule 2,

CPC filed on 9th October, 1987 and allow the two documents, to be taken in evidence provided the the petitioners-defendants pay cost of Rs. 100/-. The next date may be fixed in the trial court within three weeks.

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