

Chandan Lal Vs. Keshav Dev

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Court : Rajasthan

Decided On : Sep-05-1986

Reported in : 1986WLN(UC)419

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

Appeal No. : S.B. Civil Revision Petition No. 276 of 1978

Appellant : Chandan Lal

Respondent : Keshav Dev

Disposition : Petition allowed

Judgement :

J.S. Verma, C.J.

1. This is plaintiff's revision against a part of the trial Court's order dated May 27, 1978, by which some amendments sought to be made in the plaint have been disallowed. The suit was filed by the plaintiff on February 5, 1975 for declaration of his title to a wall and the consequential relief of injunction. The plaintiff then applied for amending the plaint. The substance of the amendments sought by the plaintiff as summarised by the Court below in the impugned order is as under:

(1) Seven defendants are to be added,

(2) The length of the disputed wall is to be corrected from 37 ft., 10 inches to 30, ft. 3 inches,

(3) A fresh cause of action as arising on April 20, 1975 is to be added in the plaint,

(4) The declaration sought to be for the sole ownership of the plaintiff is to be amended in the alternative to the joint ownership of the plaintiff and some of the defendants.

2. The trial Court has permitted the plaintiff to amend the plaint only as mentioned in the above item No. 2, but the remaining amendments proposed in the plaint have been disallowed. Hence this revision by the plaintiff.

3. The main objection of learned Counsel for the respondent is to the amendment proposed by the aforesaid item No. 3 relating to a further cause of action arising on April 20, 1975. The learned Counsel for the respondent did not, however, make any serious attempt to contend that the amendments proposed by items Nos. 1 and 4 should not be allowed. The only question, therefore, is whether the trial Court's order rejecting the proposed amendment shown in item No. 3 can be sustained. In my opinion, this part of the trial Court's order cannot be sustained and even this amendment should be allowed.

4. The plaintiff seeks a decision of the dispute on the basis of the same title, which he had claimed initially in the plaint and apparently the alleged further cause of action arising on April 20, 1975 is a subsequent happening during the pendency of the suit. It is therefore, appropriate and also apposite that all such disputes between the parties should be decided in the same suit instead of driving the plaintiff to another suit. Learned Counsel for the respondent, however, contended that the question of limitation may also have to be examined. It is sufficient to mention that any such objection available to the defendant can be raised by him for decision on merits by the trial Court. That is however, not a reason which can be relied on for refusing an amendment in the pleadings.

5. Consequently, the revision is allowed. The trial Court's order refusing amendments to the plaintiff to make the remaining amendments in the plaint is set

aside and the application for amendment is allowed with no order as to costs. The parties shall appear in the trial Court for taking further direction on October 13, 1986.

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