

**Ramdeep Singh Vs. the Additional Sessions Judge (Fast Track) and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/770539](http://sooperkanoon.com/770539)

**Court :** Rajasthan

**Decided On :** Sep-01-2009

**Reported in :** 2009(2)WLN231

**Judge :** Narendra Kumar Jain, J.

**Appellant :** Ramdeep Singh

**Respondent :** The Additional Sessions Judge (Fast Track) and ors.

**Disposition :** Petition dismissed

**Judgement :**

**Narendra Kumar Jain, J.**

1. Heard learned Counsel for the defendant-petitioner.
2. The defendant-petitioner has preferred this writ petition challenging the impugned order dt. 10.07.2009 passed by the Additional Sessions Judge (Fast Track) No. 1, Bharatpur, whereby an application filed by the plaintiffs-respondents for amendment in the plaint under Order 6 Rule 17 CPC, has been allowed.
3. The submission of the learned Counsel for the petitioner is that by way of this amendment made in the plaint, the nature of the suit has been changed, therefore, the impugned order is liable to be set aside by this Court.

4. I have considered his submission in the light of the reasons assigned by the trial Court in the impugned order.
5. The trial Court has observed that the plaintiff-respondents filed the suit for cancellation of sale-deed and permanent injunction on the basis of 'Will' executed in their favour but on raising a plea / objection in the written statement that the 'Will' is forged one, the plaintiff moved an application for amendment in the plaint raising alternative plea that even if the 'Will' is not found to be genuine, the plaintiffs are owner of the property as legal heirs as per the provisions of Hindu Succession Act, therefore, nature of suit is not going to be changed but it is only an alternative plea which has been taken by the plaintiffs by way of amendment in the plaint. The reasons assigned by the trial Court are absolutely justified.
6. It is relevant to mention that trial Court had jurisdiction to entertain and decide the application under Order 6 Rule 17 CPC. Therefore, it cannot be said that there is any error of jurisdiction or the impugned order is without jurisdiction.
7. In *Babhutmal Raichand Oswal v. Laxmibai R. Tarte and Anr.* : AIR 1975 SC 1297, the Hon'ble Apex Court, while considering the scope of Article 227 of the Constitution of India, held that the power of superintendence of High Court under Article 227 of the Constitution of India being extraordinary is to be exercised most sparingly and only in appropriate cases. This power, as in the case of certiorari jurisdiction, cannot be invoked to correct an error of fact which only a superior Court can do in exercise of its statutory power as a Court of appeal. The High Court cannot in guise of exercising its jurisdiction under Article 227 convert itself into a Court of appeal when the legislature has not conferred a right of appeal and made the decision of the subordinate Court or tribunal final on facts. The High Court cannot, while exercising jurisdiction under Article 227 of the Constitution of India, interfere with findings of fact recorded by the subordinate Court or tribunal. Its function is limited to seeing that the subordinate Court or tribunal functions within the limits of its authority. It cannot correct mere errors of fact by re-appreciating evidence.
8. In view of the above discussions, I do not find any merit in the submission of the learned Counsel for the petitioner and the writ petition is dismissed being devoid of

any merit, in limine.

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