

**Vimla Devi (Smt.) Vs. the Ld. Additional District Judge No. 6 and ors.**

**Vimla Devi (Smt.) Vs. the Ld. Additional District Judge No. 6 and ors.**

**SooperKanoon Citation :** [sooperkanoon.com/850840](http://sooperkanoon.com/850840)

**Court :** Rajasthan

**Decided On :** Apr-20-2010

**Reported in :** RLW2010(2)Raj1669

**Judge :** R.S. Chauhan, J.

**Appellant :** Vimla Devi (Smt.)

**Respondent :** The Ld. Additional District Judge No. 6 and ors.

**Judgement :**

**R.S. Chauhan, J.**

1. Aggrieved by the orders dated 06.05.2008 and 05.03.2010, the petitioner has approached this Court. Through the former order, the Additional Civil Judge (Junior Division) No. 3, Jaipur City, Jaipur had rejected the TI Application of the petitioner. Through the latter order, the Additional District Judge No. 6, Jaipur City, Jaipur had upheld the order dated 06.05.2008.

2. The brief facts of the case are that the petitioner, Smt. Vimla Devi, a widow, claims that she had bought a plot, Plot No. 4, in a housing society established by the Jalmahal Housing Cooperative Society Ltd. She further claims that the said plot is situated in khasra No. 256 which earlier belonged to her father-in-law, Ramchandra. According to her, since respondent Nos. 2 to 7 wanted to dispossess her from the said plot, she filed a suit for permanent injunction. Along

with the said suit, she filed an application for temporary injunction. However, after hearing both the sides, vide order dated 06.05.2008, her application for temporary injunction was rejected. Thereafter, she filed an appeal before the Additional District Judge. However, vide order dated 05.03.2010, the said appeal was dismissed. Hence, this petition before this Court.

3. The learned Counsel for the petitioner has contended that a litigant should not suffer because of lapses committed on the part of his/her counsel. According to the learned Counsel, the learned Magistrate has rejected the TI application ostensibly on the ground that original papers, patta and the site plan of Plot No. 4, Jalmahal Housing Cooperative Society were not produced in the Court. Therefore, the petitioner was unable to establish a prima facie case about her ownership, and possession of the said plot in her favour. It is one of the reasons for rejecting the TI Application. However, today the learned Counsel has produced the original papers before this Court and has prayed that the matter be remanded back to the learned Magistrate.

4. It is, indeed, a settled position of law that a litigant should not suffer because of lapses committed by his/her counsel. Considering the fact that the petitioner happens to be a widow, considering the fact that she alleges that she is about to be dispossessed from her plot by respondent Nos. 2 to 7, considering the fact that the original papers have been submitted before this Court for its perusal, in these facts and circumstances, while setting aside the orders dated 06.05.2008 and 05.03.2010, this Court remands the case back to the learned Magistrate with the direction that the original papers of the property in dispute be taken on record, and to pass a reasoned order within a period of two weeks from the date of receipt of certified copy of this order.

5. Till the necessary order on T.I. application is passed by the learned Magistrate, the parties are directed to maintain status quo as of today i.e., April 20,2010.

6. With these directions, this writ petition is, hereby, disposed off.