

Het Ram Vs. Amar Singh

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Court : Rajasthan

Decided On : Jul-04-2011

Judge : Narendra Kumar Jain, J.

Acts : [Code of Civil Procedure \(CPC\) , 1908](#) - Order 7 Rule 11

Appeal No. : Case No. CSA 666 of 2009

Appellant : Het Ram

Respondent : Amar Singh

Advocate for Def. : Mr. Ambrish Vashishtha, Adv

Advocate for Pet/Ap. : Mr. J.P. Goyal; Ms. Manisha Surana, Adv

Judgement :

1. Heard learned counsel for the parties.

2. Plaintiff/appellant filed a suit for permanent injunction in respect of disputed property. Defendant filed application under Order 7 Rule 11 CPC for dismissal of the suit on the ground that suit is barred by principle of res-judicata. The trial Court allowed the application and dismissed the suit. The judgment passed by the trial Court has been affirmed by the First Appellate Court while dismissing plaintiff's first appeal. Hence, this second appeal has been preferred on behalf of plaintiff.

3. From the facts narrated in the impugned judgments, which have not been disputed by the learned counsel for the parties, it reveals that earlier respondent had filed a suit for restoration of possession, which was decreed ex-parte against present appellant, the present appellant filed an application for setting aside the ex-parte decree, which was dismissed, against which he preferred appeal but without success. The original decree passed in favour of respondent still exists and in pursuance of that decree, he has already got possession. Thereafter the plaintiff/appellant filed the present suit.

4. After considering all the facts and circumstances of the case, I am of the view that there is no illegality or perversity in the impugned judgments so as interfere with the same.

5. The second appeal can be entertained only on substantial question of law, which, in my view, is not involved in this appeal. Hence, it is dismissed in limine.

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