

Bano Vs. the Additional District Judge and Others

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Court : Rajasthan

Decided On : Jul-26-2011

Judge : Mahesh Bhagwati, J.

Acts : Code of Civil Procedure (CPC) , - Order 6 Rule 17

Appeal No. : S.B. Civil Writ Petition No. 6501 of 2008

Appellant : Bano

Respondent : The Additional District Judge and Others

Advocate for Def. : MR. Ambrish Vashistha, Adv

Advocate for Pet/Ap. : Mr. Ravi Bhojak, Adv

Judgement :

1. Challenge in this writ petition is to the order dated 25.2.2008 whereby the learned Additional District Judge (Fast Track) No.1, Dholpur, allowed the application of defendants filed under Order VI Rule 17 CPC of CPC with a cost of Rs. 500/-.

2. Having considered the submissions made at the bar and carefully perused the relevant material on record including the impugned order, it is noticed that the defendants-respondents denied the pedigree as narrated in para no.1 of the suit. The defendants in their written statement, initially admitted the contents of para

no.1 of the suit, but later-on, when they came to know that the contents, which were, in-fact, not to be admitted, but by way of typing error, the word “???” could not be scribbled before the word “??????”, they filed an application seeking only this much of amendment in the written statement. Since the amendment was sought at a belated stage, the learned trial court, albeit, allowed the amendment, but imposed a cost of Rs. 500/-.

3. Learned counsel for the petitioner contended that the learned trial court ought not to have allowed the said amendment as this amendment has changed the entire nature of the suit. Initially, he admitted the pedigree, but by way of this amendment he denied the same pedigree, which has altered the nature of the suit.

4. It is relevant to record that mere denial is not enough unless it stands supported by cogent evidence. The argument of the learned counsel for the petitioner that this amendment shall change the nature of the suit is not found to be tenable at all. The said amendment has rightly been allowed by the learned trial court. I do not find any infirmity in the impugned order and the same warrants no intervention.

5. In view of above, the writ petition fails and the same being bereft of any substance deserves to be dismissed at the threshold, which stands dismissed accordingly.

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