

(1995) 01 RAJ CK 0015

In the Rajasthan High Court

Case No : Civil Revision Petition No. 142 of 1995

Anoop Chand Jain

APPELLANT

Vs

Praveen Chand Jain and Others

RESPONDENT

Date of Decision : 24-01-1995

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115, 151

Citation : (1996) 1 CivCC 199 : (1995) 1 RLW 62 : (1995) 2 WLC 727 : (1995) 1 WLN 370

Hon'ble Judges : R.S. Kejriwal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.S. Kejriwal, J.—This revision has been directed against the order dated 1.12.1994, passed by A.D.J. No. 2, Jaipur City, Jaipur, in Civil Suit No. 90 of 1986, whereby the application of the petitioner filed u/s 151 CPC was rejected.

2. Heard counsel for the petitioner and gone through the impugned order passed by learned Additional District Judge.

3. The execution of the documents dated 1.10.1971 and 9.1.1984 was admitted by the plaintiff petitioner in his statement before Court. Later on the plaintiff-petitioner filed an application u/s 151 CPC stating therein that these documents were inadmissible in evidence as the same were neither registered nor properly stamped. This application was rejected by the trial Court vide its order dated 1.12.1994. Being aggrieved with the said order, the plaintiff petitioner filed the present revision petition.

4. Counsel for the petitioner submits that the authority reported in 1970 RLW 320 (Harak Chand v. State of Rajasthan) is not applicable to the facts of the present case as the said judgment was rendered by the Full Bench of this court under the Old CPC and after amendment in CPC vide Act No. 104 of 1976, Jurisdiction of the Court u/s 115 CPC has been enlarged. In support of his

arguments, he placed reliance on a judgment of this Court reported in 1992(1) WLC 643 (Bhorosilal and Another v. Moot Chand and Some Other cases. It is correct that explanation to Section 115 in CPC was added vide Act No. 104 of 1976. After the amendment expression "any case which has been decided" includes any order made in the course of a suit or any other proceedings. Only to this extent the scope of revision has been enlarged. But there is no amendment in Sub-section (1) of Section 115 CPC.

5. In Harak Chand's case (supra) while interpreting section 115(1)(c) of the Civil Procedure Code, the Full Bench of this Court held that if the lower court comes to the conclusion that a document is admissible or inadmissible, it can not be said that the court had acted in the exercise of its jurisdiction illegally or with material irregularity. In the present case the trial court has admitted the document in evidence, as execution of the same was not denied by the plaintiff petitioner. In my opinion, the trial court has not committed any jurisdictional error in rejecting the application submitted by the petitioner u/s 115 CPC.

6. There is no merit in the revision and the same is dismissed.