
(2013) 05 RAJ CK 0069
In the Rajasthan High Court
Case No : Civil Writ Petition No. 3085 of 2013

Bhagat Singh

APPELLANT

Vs

Smt. Amar Kaur

RESPONDENT

Date of Decision : 14-05-2013

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 14 Rule 5, Order 7 Rule 11, 151

Citation : (2013) 3 WLN 507

Hon'ble Judges : Vijay Bishnoi, J

Bench : Single Bench

Advocate : H.R. Chawala, for the Appellant;

Final Decision : Dismissed

Judgement

Vijay Bishnoi, J.—This writ petition has been preferred by the petitioner against the order dt. 19.2.2013 whereby the learned trial Court

rejected the application preferred by the petitioner under Order 14 Rule 5 read with Section 151 C.P.C. Brief facts of the case are that the

respondent, who happened to be mother of the petitioner, has filed a suit in the Court of Civil Judge (Junior Division), Padampur (hereinafter

referred to as "the trial court") for cancellation of gift deed dt. 14.12.2007 alleged to have been executed by her in favour of the petitioner.

2. The petitioner filed written statement in the said suit and on the basis of pleadings of the parties, the trial Court had framed as many as 3 issues

on 22.10.2011. The petitioner thereafter preferred an application under Order 14 Rule 5 read with Section 151 C.P.C. in February 2012 for

framing proper and additional issues. The learned trial Court after hearing the parties dismissed the said application preferred by the petitioner vide

order dt. 19.2.2013 along with the another application preferred by the petitioner

under Order 7 Rule 11 read with Section 151 C.P.C. By way of this writ petition, the petitioner has challenged the order dt. 19.2.2013 passed by the trial Court to the extent the application of the petitioner under Order 14 Rule 5 read with Section 151 C.P.C. have been dismissed.

3. Learned counsel for the petitioner has argued that the learned trial Court has failed to frame proper and additional issues as per the pleadings of the parties and the application of the petitioner for framing of proper and additional issues moved under Order 14 Rule 5 read with Section 151 C.P.C. has been dismissed by the trial Court in cursory manner and, therefore, the order dt. 19.2.2013, rejecting the aforesaid application of the petitioner is illegal and is liable to be set aside.

4. This Court has taken into consideration the impugned order dt. 19.2.2013 passed by the learned trial Court.

5. The learned trial Court has observed that on 22.11.2011, the issues were framed and the advocates of the concerned parties had taken note of the same but had not raised any objection at that time. It is also observed by the learned trial Court that the statement of respondent Amar Kaur has already been recorded and the application for framing proper and additional issues have been preferred by the petitioner after recording of these statements. The learned trial Court has further observed that the issues framed by the trial Court are sufficient to decide the dispute between the parties in lawful manner.

6. It is an admitted position that the petitioner had applied for framing of additional issues and proper issues after recording the statement of respondent Smt. Amar Kaur and it is also not in dispute that at the time of framing of issues or before recording the statement of Smt. Amar Kaur, no objection was raised on behalf of the petitioner. In view of above facts and circumstances of the case, this Court does not find any illegality in the order passed by the learned trial Court whereby the application preferred by the petitioner under Order 14 Rule 5 read with Section 151 C.P.C. has been dismissed and, therefore, there is no force in this writ petition and the same is hereby dismissed. No order as to costs.