
(1986) 10 RAJ CK 0067
In the Rajasthan High Court
Case No : Civil Revision No. 372 of 1980

Bhanwar Lal and Others

APPELLANT

Vs

U.I.T.

RESPONDENT

Date of Decision : 29-10-1986

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 1

Citation : (1987) 1 WLN 213

Hon'ble Judges : J.S. Verma, C.J

Bench : Single Bench

Final Decision : Allowed

Judgement

Jagdish Sharan Verma, C.J.—This revision is against trial court's order dated 27-9-80 in so far as it relates to the decision on issue Nos. 2, 7 and 8 only. In substance, these three issues together relate to the defendants objection of misjoinder of plaintiffs and causes of actions. The trial court has upheld these objections, Hence this revision by the plaintiffs.

2. The plaintiffs claim to be owners in possession of different plots of land sold to them by one Dalpat Raj by separate sale deeds, executed on 26-2-74. The title of plaintiff transferor Dalpat Raj is based on a patta granted to him by the Municipal Council, Jodhpur, the predecessor in interest of the defendant Urban Improvement Trust, Jodhpur. The plaintiffs alleged that on 18-10-75 the defendant attempted to dispossess of the plaintiffs from these plots of land alleging that the plaintiffs were trespassers, to whom no valid title was conveyed by their transferor Dalpatraj. On this basis, the plaintiffs have claimed an injunction to restrain the defendant from dispossessing them from these plots.

3. All these plaintiffs, claiming title on the above basis, have joined in one suit on the ground that they are entitled to do so in accordance with Order 1, Rule 1, CPC. The trial court has, however, not accepted this contention and decided the question against the plaintiffs. Order 1, Rule 1, CPC reads as under-

Rule 1 Who may be joined as plaintiffs. All persons may be joined in one suit as plaintiffs where-

(a) any right to relief in respect of, or arising out of the same act or transaction or series of acts or transactions is alleged to exist in such persons, whether jointly severally or in the alternative, and

(b) if such persons brought separate suits any common question of law or fact would arise.

4. Rule 1 of Order 1, CPC is an enabling provision which may be resorted to by several plaintiffs if they satisfy the requirement of this provision. Rule 1 thereafter, empowers the court to order separate trials over where several plaintiffs can join in one suit as provided in Rule 1. The court has, therefore, a discretion to separate the trials according to Rule 2 if it is of the opinion that the joinder of plaintiffs may embarrass or delay the trial of the suit. There is no dispute that common questions arise for decision in respect of each of these plaintiffs so that if separate suits had been filed by them instead of joining in one suit, then those suits could legitimately have been consolidated for trial and common evidence could have been recorded. The question, therefore, is whether even on these facts it can be said that the joinder of these plaintiffs in one suit is defective.

5. It is not disputed that the requirement contained in Clause (b) of Rule 1 is satisfied as already indicated. The only question, therefore, is whether the further requirement contained in Clause (a) of Rule 1 is also satisfied in order to enable these plaintiffs join in one suit. In my opinion, the facts on which the suit is based, as indicated earlier, clearly indicate that the right to relief on which the claim of each plaintiff is based, arises out of the same act or transaction or series of acts or transactions". Even if the cause of action in respect of each of the plaintiff which is based on the attempted dispossession on 26-2-74, of all the plaintiffs by the defendant, is based on independent acts of trespass or apprehended trespass, it cannot be doubted that they together would constitute a common series of acts or transactions, being inter connected. All the plaintiffs in the present case, claim title through a common transferor by sale deeds executed on the same day and the defendant, on the same ground, treats all the plaintiffs as trespassers and the acts of trespass alleged by the plaintiff, are of the same day, forming at least several parts of the same transaction. In such a situation, it cannot be doubted that this requirement also of Rule 1 contained in Clause (a) therein is satisfied in the present case.

6. As a result of the above discussion it follows that the contrary conclusion reached by the trial court on the above point, i.e. issue Nos. 2, 7 and 8 is contrary to law and results from a misconstruction of Order 1, Rule 1 CPC.

7. Consequently, the revision is allowed and the decision of the trial court on these issues is set aside and it is held that there is no defect of misjoinder of plaintiffs or causes of acts in the present suit. The trial court shall now proceed

to try the suit in accordance with law.

8. Both sides state that the trial court has already fixed a date for appearance of the parties. It is, therefore, not necessary to make such a direction. The record of the trial court be returned forth-with. No costs.