

(2010) 11 RAJ CK 0101

In the Rajasthan High Court

Case No : Civil Miscellaneous Stay Application No. 1461 of 2008 in Civil Second Appeal No. 183 of 2008

Brijendra and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 19-11-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 100

Citation : (2010) 11 RAJ CK 0101

Hon'ble Judges : Narendra Kumar Jain, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Narendra Kumar Jain, J.—Heard the learned Counsel for Appellants.

2. This is Plaintiffs second appeal in a suit for permanent injunction in respect of a piece of land in dispute, which has been dismissed by both the Courts below.

3. Submission of learned Counsel for Appellants is that the Appellants are in possession of the land in dispute, however, during pendency of the suit, the Respondents initiated legal proceedings and passed an order of dispossession of the Appellants and they have already preferred an appeal in the competent Court, which is still pending, but during pendency of the appeal the Respondents are dispossessing the Appellants, therefore, necessary order be passed in the interest of justice.

4. Issue Nos. 1 and 2 and other issues are relating to question of facts and there is concurrent finding of fact of both the Courts below, which cannot be interfered with by this Court in second appeal u/s 100 CPC.

5. As per submission of learned Counsel for Appellants, it is clear that Respondents are not dispossessing the Appellants without due process of law but they have initiated proceedings for dispossession of the Appellants in accordance with law. As contended by learned Counsel for Appellants, the Appellants have

already preferred an appeal in the competent Court, which is said to be pending also. It is needless to mention that the Appellants are at liberty to move stay application in their appeal, which is said to be pending before the competent Court of law.

6. Since no substantial question of law is involved in this second appeal, therefore, the same is dismissed in limine.

ORDER

7. Since the main appeal itself has been dismissed, therefore, this stay application does not survive and the same also stands dismissed.