
(1986) 08 RAJ CK 0041

In the Rajasthan High Court

Case No : Civil Revision Petition No. 634 of 1986

Ganpat Lal

APPELLANT

Vs

Basti Ram

RESPONDENT

Date of Decision : 23-08-1986

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 27, Order 43 Rule 2

Citation : (1988) WLN 293

Hon'ble Judges : Mohini Kapoor, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mohini Kapoor, J.—The learned Addl. District Judge, Beawar has refused to admit documents in a miscellaneous appeal deciding that the provisions of Order 41, Rule 27, CPC. are applicable only to regular appeals and not to miscellaneous appeals. This view of the learned Addl. District Judge has been challenged.

2. Order 43, Rules 2, CPC provides that the rules of Order 41 shall apply so far as may be to appeals from orders. Thus it is to be seen whether Rule 27 of Order 41 can be said to be applicable to appeals against orders. The suit is at an initial stage and it is open to the petitioner plaintiff to produce the documents he desires to produce in the suit. Rule 27 of order 41 becomes applicable only when additional evidence is required to be produced after a decree has been passed. Thus the nature of Rule 27 is such that it provides for admitting additional evidence at a late stage. In the present case, the stage for producing documents has not passed. As such Rule 27 cannot be made applicable to appeals under Order 43. There is no illegality in the order passed by the learned Addl. District Judge. The petitioner can produce the document before the lower court. This revision petition is rejected.