

(2012) 07 RAJ CK 0054

In the Rajasthan High Court

Case No : Civil Writ Petition No. 3786 of 2012

Geeta (Smt.) and Another

APPELLANT

Vs

LRs of Smt. Chandi and Others

RESPONDENT

Date of Decision : 10-07-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 10
Constitution of India, 1950 — Article 227

Citation : (2012) 3 WLN 407

Hon'ble Judges : Narendra Kumar Jain, J

Bench : Single Bench

Advocate : Surendra Bagmalani for Dr. P.S. Bhati, for the Appellant;

Final Decision : Dismissed

Judgement

Narendra Kumar Jain-II, J.—Heard learned counsel for the petitioners and perused the order impugned. By the order impugned dt. 17.01.2012 the learned Additional Sessions Judge, Nathdwara (herein after referred to as "the trial court") allowed an application under sec. 10, CPC filed by the defendant-respondent No. 20 in Civil Original Suit No. 14/2008, for staying proceedings of the civil suit till decision of the revenue suit.

2. The petitioner-plaintiff No. 2- Smt. Kamla filed a suit before the trial Court for declaring Sale Deed dt. 30.03.2005 executed by defendant No. 2- Sukhi Bai & late Shanti Bai in favour of defendant No. 20 (Smt. Seema W/o Vardi Chand) and Sale Deed dt. 20.07.2005 executed by defendant No. 20 (Smt. Seema) in favour of defendant No. 21 (Smt. Bharti w/o Shanker Lal), in respect of an agriculture land situated in village-Ghodach, Teshil-Nathdwara as void and for injunction against the respondent-defendants.

3. In the aforesaid suit, the respondent-defendant No. 20- MRs. Seema W/o Vardhi Chand Dangi filed an application under sec. 10 CPC, inter alia, stating that a revenue suit for declaration of khatedari rights and permanent injunction under

secs. 88 & 188 of the Rajasthan Land Revenue Act in respect of the suit land is pending before the Assistant Collector, Nathdwara and therefore, prayer was made for staying proceeding in the civil suit till decision as to khatedari rights in the revenue suit.

4. In the present writ petition, learned counsel for the petitioners submitted that the relief prayed for in the Civil Suit was altogether different, pertaining to Sale Deeds executed by defendants, which were void ab initio and hence, prayer was made in the civil suit for declaring those Sale Deeds as void and injunction against defendants in that regard. The revenue suit was altogether different, seeking declaration of khatedari rights under revenue law. However, learned Court below wrongly accepted the application under sec. 10 CPC filed by the defendant No. 20 and stayed proceedings of the civil suit. In consequence, the defendants are likely to alienate the land in question on the basis of those Sale Deeds, resulting in altering very subject of the suit.

5. In this context, it would be pertinent to refer to the observation made by the learned Court below in its order dt. 17.01.2012 while deciding the application under sec. 10 CPC:

6. The Hon''ble Apex Court in case of Shalini Shyam Shetty and Another Vs. Rajendra Shankar Patil, elaborately considered the scope of interference under Article 227 of the Constitution. In the aforesaid judgment, Hon''ble Supreme Court held that - the High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of the Tribunals and Courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principle of natural justice have been flouted. In exercise of power of superintendence. High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the Tribunals or Courts subordinate to it, is a possible view. In other words, the jurisdiction has to be very sparingly exercised. The power is discretionary and has to be exercised on equitable principle. On a proper appreciation of the wide and unfettered power of the High Court under Article 227, it transpires that the main object of this Article is to keep strict administrative and judicial control by the High Court on the administration of justice within its territory.

7. The object of superintendence, both administrative and judicial is to maintain efficiency, smooth and orderly functioning of the entire machinery of justice in such a way as it does not bring it into any disrepute. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the Tribunals and Courts subordinate to the High Court. The power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline. An improper and a frequent exercise of this power will be counterproductive and will divest this extraordinary powers of its strength and vitality.

8. In the facts and circumstances of the present case, I do not find any substance in the submissions made by the learned counsel for the petitioner and I am of the considered opinion that the order impugned dt. 17.01.2012 passed by the learned Additional District Judge, Nathdwara while allowing application under Sec. 10 CPC filed by defendant in Civil Original Suit No. 14/2008, does not suffer from any error, illegality or infirmity warranting interference by this Court in its supervisory jurisdiction under Article 227 of the Constitution of India. In the result, this writ petition fails and is hereby dismissed in limine. There shall be no order as to costs. The Stay Petition also stands disposed of accordingly.