
(2013) 02 RAJ CK 0073

In the Rajasthan High Court

Case No : Civil Writ Petition No. 9606 of 2010

Gram Panchayat Mungthala

APPELLANT

Vs

Bahadur Singh

RESPONDENT

Date of Decision : 04-02-2013

Acts Referred:

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

Citation : (2013) 2 WLN 348

Hon'ble Judges : Gopal Krishan Vyas, J

Bench : Single Bench

Advocate : H.G. Chanda, for the Appellant; Rajesh Panwar, for the Respondent

Final Decision : Dismissed

Judgement

Gopal Krishan Vyas, J.—Learned counsel for the respondent has raised an objection that this writ petition is not maintainable against the impugned order dt. 07.04.2010 whereby an application filed under Order 7 Rule 11 CPC was rejected. There is strength in the argument of learned counsel for the respondent. Therefore, this writ petition is hereby treated as revision petition.

2. Heard learned counsel for the parties.

3. Learned counsel for the petitioner submits that the trial Court has committed a grave error while rejecting the application filed by the Gram Panchayat Mungthala filed under Order 7 Rule 11 CPC because for instituting the suit against the Panchayati Raj Institution, it is mandatory to first give notice under Sec. 109 of the Panchayati Raj Act, 1994, therefore, learned trial Court ought to have considered this aspect of the matter at the time of deciding the application filed under Order 7 Rule 11 CPC but while ignoring the provision of law, the trial Court rejected the application, which is totally illegal.

4. Learned counsel for the respondent submits that order was passed on 07.04.2010 and near about two and half years have passed and there is no stay operating in this case, so also, the objection was raised by the petitioner for

providing opportunity after framing issue in the trial Court, therefore, at this stage, the order impugned does not require any interference because for the purpose of deciding the application filed under Order 7 Rule 11 CPC, the plaint is required to be seen and according to the suit filed by the respondent plaintiff, he has not prayed for compliance of any provision enumerated in the Act. It is also worthwhile to observe that at the time of deciding the application filed under Order 7 Rule 11 CPC, no reply or the grounds raised in the reply can be considered and trial Court is required to decide only on the basis of the pleadings of the plaint. In view of above, I see no reason to interfere in this revision petition. Hence, the revision petition is dismissed.