

(2013) 08 RAJ CK 0070
In the Rajasthan High Court
Case No : Civil Writ Petition No. 14433 of 2013

Ishwari Prasad

APPELLANT

Vs

Ramji Lal and Others

RESPONDENT

Date of Decision : 30-08-2013

Acts Referred:

Citation : (2014) 1 WLN 266

Hon'ble Judges : Jainendra Kumar Ranka, J

Bench : Single Bench

Advocate : Dilip Singh Jadaun, for the Appellant;

Final Decision : Disposed Off

Judgement

Jainendra Kumar Ranka, J.—By instant writ petition, the plaintiff-petitioner has assailed the order dt. 16.05.2013 passed by the Rent Control Tribunal rejecting the application filed by the plaintiff-petitioner under Sec. 10 C.P.C. seeking that further proceedings in the case be stayed till decision of the suit before the Court of Civil Judge (Jr. Div.) Dholpur. It is pleaded by counsel for the plaintiff-petitioner that another suit of the similar nature between the same parties with regard to the same property is already pending before the Court of Civil Judge (Jr. Div.), Dholpur where all the issues relating to the property have to be decided. He submits that temporary injunction application was allowed in favour of the plaintiff-petitioner, however, thereafter another suit has been filed by the defendants-respondents against the plaintiff-petitioner and when the second suit was filed, an application under Sec. 10 C.P.C. was filed by the plaintiff-petitioner in the present suit contending therein that once the property in question and the issues are the same, there was no occasion to file another suit with respect to the same property, as such, the proceedings in the present suit till disposal of the another suit may be stayed. Counsel for the plaintiff-petitioner states at bar that the plaintiff-petitioner wanted to file written statement in the second suit which was refused to be taken on record by the trial Court and the trial Court has proceeded ahead to dispose of the matter. The plaintiff-petitioner is also

aggrieved by the cost, which was imposed by the learned Rent Tribunal while rejecting the application vide order impugned.

2. I have considered the arguments advanced by counsel for the plaintiff-petitioner and also gone through the averments made in the writ petition as well as copy of the plaint and the order impugned passed by the Rent Tribunal. From perusal of the material on record, it reveals that the issues in both the cases are different and, therefore, in my view, the Rent Tribunal has rightly rejected the application of the plaintiff-petitioner by holding that the subject matter of both the cases is different and the defendant-respondent was correct in filing another suit.

3. Be that as it may, in my view, when the matter, though may be different but since it relates to the same property, therefore, the trial Court has permitted to decide both the suits together so that when the parties and property remaining the same, the lis between the parties is decided once for all by a common order.

4. Accordingly, I direct the learned trial Court to decide both the suits together in accordance with law. If the contention of the counsel for the plaintiff-petitioner is correct that the plaintiff-petitioner was not allowed to file written statement, in the second suit, then in that case, I direct the learned trial Court to take the same on record and decide both the cases in accordance with law. The trial Court may allow two weeks to the petitioner to file the written statement. In view of the above facts and circumstances, I feel that the trial Court was not justified in imposing cost of Rs. 1,000/- which, in the opinion of this Court is on higher side and accordingly the quantum of cost is reduced to Rs. 750/- which will be paid by the plaintiff-petitioner to the defendant-respondent on or before the next date of hearing and in case the amount of cost is not deposited, the Rent Tribunal will be free to act in accordance with law. Considering the nature of facts, the trial Court is also directed to decide the suit expeditiously and preferably within a period of six months from the date of receipt of certified copy of this order. With the above observations/directions, the writ petition stands disposed of so also stay application.