

(2012) 09 RAJ CK 0052

In the Rajasthan High Court

Case No : Civil Writ Petition no. 11152 of 2012

Jagdish

APPELLANT

Vs

Civil Judge (JD) Dausa District, Dausa and Others

RESPONDENT

Date of Decision : 28-09-2012

Acts Referred:

Citation : (2012) 4 WLN 464

Hon'ble Judges : Bela M. Trivedi, J

Bench : Single Bench

Advocate : Nawal Singh Sikarwar, for the Appellant; S.S. Tanwar, for the Respondent

Final Decision : Dismissed

Judgement

Hon'ble Ms. Justice Bela M. Trivedi

1. The present petition has been filed by the petitioner-plaintiff No. 3 challenging the order dated 26.5.2012 passed by the civil Judge (JD) Dausa, District Dausa (hereinafter referred as the "trial court") in civil Suit. No. 87 of 2010, whereby the trial court has dismissed the application of the petitioner for leading the evidence on the contents of the document Ex. 2. In the instant case, it appears that the petitioner and respondents no. 4 and 5-original plaintiffs have filed the suit seeking partition and permanent injunction in respect of the suit property. The suit is at the fag end and is pending at the stage of final arguments. The petitioner submitted an application praying therein to lead evidence on the contents of the document ex. 2 which was produced by the plaintiff during the course of cross examination of defendant No. 2. The said application has been dismissed by the trial court vide the impugned order.

2. It has been sought to be submitted by learned counsel Mr. Nawal singh sikarwar for the petitioner that the document in question has already been exhibited by the court during the course of cross examination of the defendants No. 2, however the defendant No. 2 having denied the signature on the said

document, the contents of the said document need to be proved. According to him, if the contents of the said document are not permitted to be proved, the purpose of exhibiting the said document would be frustrated.

3. Learned counsel Mr. ss Tanwar appearing for respondent Nos. 2 and 3 has supported the impugned order passed by the trial court and submitted that the application has been given by the petitioner only to delay the proceedings. Having regard to the submissions made by learned counsel for the parties and to the impugned order passed by the trial court, it appears that the document in question was sought to be shown to the defendant No. 2 during his cross examination and the same has been exhibited by the court as Ex-2. It is pertinent to note that there was no reference of the said document either in the plaint or in the evidence of the plaintiff and the witnesses examined by the plaintiff. The said document was also not produced at any stage of proceedings earlier except during the course of cross examination of defendant no. 2. The learned trial court under the circumstances has rejected the said application of the petitioner by passing the detailed order. This court does not find any infirmity or illegality in the impugned order passed by the trial court. The petition being devoid of merits deserves to be dismissed and is accordingly dismissed.