(2013) 05 RAJ CK 0054

In the Rajasthan High Court

Case No : Civil Writ Petition No''s. 6909, 6927 and 6930 of 2013

Jhabar Mal APPELLANT

Vs

Board of Revenue and Others RESPONDENT

Date of Decision : 12-05-2013

Acts Referred:

Citation : (2013) 3 WLN 471

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Advocate : R.S. Choudhary, for the Appellant;

Final Decision : Disposed Off

Judgement

Vineet Kothari, J.—The plaintiff petitioner Jhabar Mal S/o. Hema Ram has filed these three writ petitions aggrieved by three different orders passed by the learned Single member of the Board of Revenue in revisional jurisdiction. In S.B. Civil Writ Petition No. 6909/2013, the learned Single Member of the Board of Revenue vide order dtd. 19.11.2012 dismissed the petitioner''s revision petition No. TA/1648/2011/Bikaner whereby the learned Board of Revenue upheld the order of the learned SDO dtd. 4.3.2011 in Revenue Suit No. 27/2007-Jhabar Mal vs. Shivdutt Singh rejecting the application of the petitioner under Order 26 Rule 9 C.P.C. for obtaining Commissioner''s report as to possession of the agricultural land in question vis-?-vis defendants.

2. In S.B. Civil Writ Petition No. 6927/2013, the learned Single Member of the Board of Revenue vide order dtd. 19.11.2012 dismissed the petitioner''s revision petition No. TA/5774/2011/Bikaner whereby the learned Board of Revenue upheld the order of the learned SDO dtd. 22.7.2011 in Revenue Suit No. 75/2009-Satya Narayan vs. Jhabar Mal whereby the request of the petitioner-plaintiff for staying the proceedings of subsequently filed suit under Sec. 10 of the C.P.C. was also turned down. According to the petitioner-plaintiff Jhabar Mal, subsequently filed suit No. 75/2009-Satya Narayan vs. Jhabar Mal was for the

same land raising the same dispute between the parties for which the plaintiff had already filed revenue suit No. 27/2007-Jhabar Mal vs. Shivdutt Singh.

3. In S.B. Civil Writ Petition No. 6930/2013, the learned Single Member of the Board of Revenue vide order dtd. 19.11.2012 dismissed the petitioner''s revision petition No. TA/1634/2007 whereby the learned Board of Revenue dismissed the revision petition and upheld the order dtd. 25.10.2007, whereby the temporary injunction application of the petitioner-plaintiff was rejected.

4. Having heard the learned counsel for the petitioner, Mr. R.S. Choudhary, this Court is satisfied that such interlocutory orders having been upheld by the learned Board of Revenue in revisional jurisdiction do not require any interference by this Court under Article 227 of the Constitution of India. The Revenue Courts below appear to have applied their mind to the facts and circumstances of the case and found that both the parties were separately claiming their respective rights and therefore, application under Sec. 10 C.P.C. could not be allowed.

5. The appointment of Commissioner under Order 26 Rule 9 C.P.C. was not called for in the facts and circumstances of the case and it was for the plaintiff to prove his own case with the help of evidence. With the available material, the learned SDO found that no case of temporary injunction was made out and hence the Temporary injunction application was rejected.

6. As far as application under Sec. 10 of the C.P.C. is concerned, this Court can express the hope that the learned SDO would consolidate the trial of both the revenue suits and try both the suits simultaneously to avoid any conflicting decrees. With the aforesaid observations, the present three writ petitions are disposed of. No order as to costs. A copy of this order be sent to the parties concerned and the learned revenue Courts below forthwith.