

(2009) 09 RAJ CK 0078
In the Rajasthan High Court

Khub Chand

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 08-09-2009

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 13 Rule 2

Citation : (2010) 1 WLN 51

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Vineet Kothari, J.—Heard learned Counsels.

2. By the impugned order dt. 17.09.1999 the learned trial Court rejected the application of the defendant under Order 13 Rule 2 CPC seeking produce the certain documents before the trial Court at the stage of defendant's evidence. The application was filed on the ground that Accountant Amar Chand of Narsinghpura Samaj did not give the relevant account books to the institution, which were to be produced in the suit. However, after the fresh elections in April 1999 the new Accountant Shri Chhoga Lai was appointed and through whom the said account books could be prepared and finalised and were sought to be produced.

3. Learned Counsel for the defendant petitioner Mr. Vinay Jain submits that similar application of the plaintiff was also allowed by the same" trial Court on 22.02.1999 (Anhex.1) permitting them to produce the account books of the plaintiffs. However, at a little later stage when the plaintiffs' evidence was over and defendant's evidence was going on similar application of the defendant petitioner came to be rejected by the learned trial Court by the impugned order dt. 17.09.1999.

4. On the other hand, Mr. Sajjan Singh opposes these submissions and submits that at a belated stage the application could not be allowed and has been rightly

rejected by the trial Court.

5. Having heard the learned Counsels and upon perusal of the record of the case, it appears that the learned trial Court has erred in rejecting the said application of the defendant petitioner, which was filed immediately after the new accountant was appointed after new elections of the defendant institution.

6. In view of rival claims of the parties, since similar application was allowed by the learned trial Court on 22.02.1999, this Court is of the opinion that there was no justification for the learned trial Court to reject the similar application of the defendant petitioner.

7. In view of above, this writ petition is allowed and the impugned order dt. 17/9/99 is set aside and the application filed by the defendant petitioner under Order 13 Rule 2 CPC stands allowed. The learned trial Court shall proceed with the trial of the case in accordance with the law forthwith. However, the plaintiff shall have a chance of rebuttal. In view of the old pendency of the matter here and proceedings having been stayed by this Court, the learned trial Court is directed to expedite the trial. Record of the case be sent back forthwith.