
(2013) 05 RAJ CK 0140
In the Rajasthan High Court
Case No : Civil Writ Petition No. 5099 of 2013

Lal Chand

APPELLANT

Vs

Hanuman and Others

RESPONDENT

Date of Decision : 06-05-2013

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10, Order 1 Rule 10(2), Order 6 Rule 17, Order 7 Rule 14, 151
Constitution of India, 1950 — Article 227

Citation : (2013) 05 RAJ CK 0140

Hon'ble Judges : Prem Shanker Asopa, J

Bench : Single Bench

Advocate : Peeyush Rathore, on behalf of Mr. R.D.S. Naruka, for the Appellant;

Final Decision : Dismissed

Judgement

Prem Shanker Asopa, J.—By this writ petition, the plaintiff-petitioner has challenged the order dated 12.3.2013 passed by the Civil Judge (Sr. Division) No. 1, Sri Madhopur in Civil Suit No. 35/92 B.T. 219/99, B.T. No. 90/03 so far as it relates to the rejection of the application under Order 1 Rule 10(2) CPC read with Sec. 151 CPC filed by the petitioner for impleading the State of Rajasthan and Gram Panchayat Jhadli as defendant-respondents. Briefly stated, the facts of the case, are that the plaintiff-petitioner filed a civil suit for permanent injunction and declaration against the defendant-non-petitioners. In the said suit, after twenty years, without there being any effective proceedings, the plaintiff-petitioner filed application for impleadment. However, considering the other applications filed under Order 7 Rule 14 CPC and Order 6 Rule 17 CPC, the application under Order 7 Rule 14 CPC was allowed on payment of cost of Rs. 3,000/- and the application for amendment was partly allowed. The application under Order 1 Rule 10 CPC, out of which the present writ petition arises, was rejected with costs of Rs. 1,000/- by considering the fact that the civil suit is continuing since 1992 and after twenty years, the application has been filed which is misuse of the judicial process. Otherwise also, no notice has been given

prior to the filing of the civil suit.

2. Submission of the counsel for the plaintiff-petitioner is that the application under Order 1 Rule 10 CPC has been filed when the occasion arose.

3. I have gone through record of the writ petition and further considered the aforesaid submission of the counsel for the plaintiff-petitioner. In my view, when the civil suit is going on since 1992, all the facts were in the knowledge of the plaintiff-petitioner, there is no reason to file the application under Order 1 Rule 10 CPC after twenty years. The said process adopted by the plaintiff-petitioner is misuse of the judicial procedure and the same is delaying tactic. The trial court has acted within the parameters. The application was rightly rejected by the trial court. No interference is called for under Article 227 of the Constitution of India. The writ petition is therefore, dismissed.