
(2012) 08 MP CK 0304
In the Madhya Pradesh High Court
Case No : Writ Petition No. 3313/ 2012

Lalta Prasad

APPELLANT

Vs

Ram Narayan and Another

RESPONDENT

Date of Decision : 23-08-2012

Acts Referred:

Constitution of India, 1950 — Article 227
Evidence Act, 1872 — Section 45

Citation : (2012) 08 MP CK 0304

Hon'ble Judges : Sheel Nagu, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sheel Nagu, Judge

1. This petition under Article 227 of the Constitution of India assails the interlocutory order dated 25.04.2012 passed by the Civil Judge Class 1, Kurwai, District Vidisha whereby an application u/s 45 of Evidence Act preferred by the defendant No.1/petitioner herein praying for conduction of medical examination of the plaintiff for ascertaining his exact age, has been rejected on the ground that the said factum of exact age of plaintiff/respondent herein is matter of evidence and also that similar request of the defendant has been rejected by the trial Court on 27.01.2012. this Court in it's limited supervisory jurisdiction under Article 227 of the Constitution of India has to assess as to whether while passing the impugned order the trial Court has transgressed any it's jurisdiction limits or not.

2. While passing the impugned order, the trial Court has assigned dual reason of the factum of age being a matter of evidence and similar request of the defendant have been rejected earlier, for declining the prayer of the defendant No.1 for medical examination of the plaintiff to ascertain the exact age.

3. The said two reasons assigned by the trial Court can very well be accepted as

reasonable in the attending facts and circumstances of the case.

4. Just because a different view could have been taken by the trial Court, can not by itself impel this Court to invoke it's limited supervisory jurisdiction under Article 227 of the Constitution of India especially when the impugned order does not indicate the trial Court to have exceeded it's jurisdictional limits or having committed any gross illegality or impropriety leading to failure of justice.

5. Moreover, the petitioner/defendant No.1 has further failed to establish any prejudice flowing out of the action of passing of the impugned interlocutory order.

6. In view of the above, this Court declines to invoke it's supervisory jurisdiction under Article 227 of the Constitution of India. Consequently, the writ petition stands dismissed without any order as to cost.