

(2013) 12 MP CK 0154
In the Madhya Pradesh High Court
Case No : Writ Petition No. 19901 of 2013

Laxmi Bai

APPELLANT

Vs

Raghunath

RESPONDENT

Date of Decision : 02-12-2013

Acts Referred:

Citation : (2013) 12 MP CK 0154

Hon'ble Judges : U.C. Maheshwari, J

Bench : Single Bench

Advocate : H.K. Chouhan, for the Appellant; Sheetal Dubey, Learned Govt. Advocate, for the Respondent

Judgement

U.C. Maheshwari, J.—Heard on the question of admission. Petitioners ? defendants have filed this petition under Article 227 of the Constitution of India being aggrieved by the order dated 11.10.2013, (P-4), passed by the 1st Civil Judge, Class-II, Burhanpur in COS No. 29-A/12, whereby his application filed under Order 6, Rule 17 of CPC for amendment of the WS after closing the evidence of the plaintiff has been dismissed in the light of the decision of the Apex Court in the matter of Vidyabai and Others Vs. Padmalatha and Another, by holding that same was filed at belated stage after framing the issues.

2. In the course of arguments, in view of the dictum of the Apex Court delivered in the above mentioned cited case, on making certain query from the petitioner's counsel, instead to argue further seeks permission to withdraw this petition as not pressed with liberty to challenge the impugned order subject to final judgment and decree of the trial court on arising the occasion in duly constituted appeal with further prayer for appropriate direction to the trial court that the facts stated in the application being additional approach from the facts already pleaded in the WS, then the petitioner should be permitted to adduce the evidence with respect of the averments made in the amendment application subject to appreciation and consideration of the same at final fag of the matter.

3. Considering earlier prayer, without expressing any opinion on merits of the matter on the impugned order, the petition is hereby dismissed as withdrawn and not pressed with liberty to challenge the impugned order, subject to final judgment and decree on arising the occasion in duly constituted appeal. So far later prayer is concerned, the trial court is directed to permit the petitioner to adduce the evidence with respect of the facts stated in the amendment application and decide its validity in the light of procedure prescribed regarding pleadings and proof under the law at the time of appreciation of the evidence for final disposal.

4. It is also observed that respondent No. 1, if aggrieved by this order or any part of it, then he may approach to this court with appropriate petition or application for redressal of his grievance. Cc as per rules.