

(2013) 11 RAJ CK 0113
In the Rajasthan High Court
Case No : Civil Writ Petition No. 4810 of 2013

Narendra Kumar Goyal

APPELLANT

Vs

Additional Chief Judicial Magistrate, Karauli and Others

RESPONDENT

Date of Decision : 28-11-2013

Acts Referred:

Citation : (2014) 3 WLN 318

Hon'ble Judges : Bela M. Trivedi, J

Bench : Single Bench

Advocate : M.K. Chaturvedi, for the Appellant; J.P. Gupta, for the Respondent

Final Decision : Allowed

Judgement

Bela M. Trivedi, J.—The present writ petition has been filed by the petitioner-applicant, challenging the order dated 03/11/2012 passed by the Additional Chief Judicial Magistrate, Karauli (hereinafter referred to as "the Court below") in the application being No. 94 of 2006, whereby the Court below has rejected the application of the present petitioner-applicant filed under Order XXII Rule 3 of CPC. In the instant case, it appears that the original applicant Haricharan Lal Goyal had filed the application seeking fixation of standard rent u/s 6 of the Rajasthan Premises (Control of Rent & Eviction) Act, 2003 against the respondent No. 3 Kailash Chand Jatav. During the pendency of the said application, the original applicant Shri Haricharan Lal Goyal expired, and therefore the present respondent No. 2, being the son of original applicant, filed the application under Order XXII Rule 3 for impleading him as the legal heir of the original applicant. The said application was allowed by the Court below. The present petitioner, when came to know about the said order, had filed another application for impleading him as the legal heir of the said applicant Shri Haricharan Lal Goyal stating therein that he along with his other brothers and sisters were also the legal heirs of the original applicant Shri Haricharan Lal Goyal, who should be impleaded in the said proceedings. The Court below has dismissed the said application of the petitioner-applicant vide the impugned

order, against which the present writ petition has been filed.

2. After having heard the learned counsels for the parties, it appears that the Court below had allowed the application of the respondent No. 2 filed under Order XXII Rule 3 for substituting him as the legal heir of the original applicant Shri Haricharan Lal Goyal on the application filed by him stating inter-alia that on the death of Shri Haricharan Lal Goyal, the suit premises had fallen into his share, and that he was collecting the rent of the suit premises. It is needless to say that on the death of the original applicant Shri Haricharan Lal Goyal, if any application was filed by one of the legal heirs of the deceased, the Court below was required to verify whether the other heirs were required to be shown as the legal heirs of the deceased in the cause title or not. In the instant case, the Court below without making any enquiry with regard to the contents of the application filed by the respondent No. 2 had permitted him to be substituted in place of the deceased Shri Haricharan Lal Goyal, which was not proper order. It is not disputed by the learned counsel Mr. J.P. Gupta for the respondent No. 2 that the petitioner-applicant, and other brothers and sisters were also the legal heirs of the deceased Shri Haricharan Lal Goyal.

3. Under the circumstances, the application filed by the present petitioner-applicant under Order XXII Rule 3 is required to be decided afresh by the Court below, in accordance with law.

4. In that view of the matter, the impugned order dated 3/11/2012 is set aside. The Court below is directed to decide the application of the petitioner-applicant afresh, in accordance with law as expeditiously as possible. The writ petition stands allowed accordingly.