
(2013) 01 RAJ CK 0109
In the Rajasthan High Court
Case No : Civil Writ Petition No. 12928 of 2012

Neenu Ram

APPELLANT

Vs

LR's of Kunna Ram and Others

RESPONDENT

Date of Decision : 28-01-2013

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2013) 1 WLN 535

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Vineet Kothari, J.—None present on behalf of petitioner though name of Mr. Pankaj Gupta, Advocate is shown in the cause list. After waiting for ten minutes for counsel for the petitioner, the Court has perused the record of the case.

2. By the impugned order dt. 27.08.2012, the learned Appellate Rent Tribunal, Jodhpur has rejected the application by the defendant-tenant, petitioner herein, seeking amendment in the reply to the eviction petition No. 447-A/2004-Kunna Ram vs. Neenu Ram at the appellate stage in Appeal No. 33/08- Neenu Ram vs. LR's of Kunna Ram, after the eviction decree was passed against him on 15.10.2008. The defendant-tenant wanted to submit that upon death of original landlord, Kunna Ram, under the "Will" of Kunna Ram in favour of his wife, namely, Farzara Bai, dt. 28.05.1994, the disputed property, however, was not mentioned in that "Will", therefore, the right to sue did not survive or devolve upon the wife of the deceased landlord. Therefore, amendment in the reply or written statement was sought by the petitioner-tenant on that basis.

3. The learned Appellate Rent Tribunal has rejected the said application by the impugned order as the question of title was not found to be relevant in the eviction matters and the dispute regarding "Will" could not be raised in the appeal or in the eviction matter.

4. Having perused the impugned order and record, this Court fully concurs with the reasons given by the learned Appellate Rent Tribunal, Jodhpur on the question of title or validity of Will cannot be gone into in eviction matters, and no interference is called for in the present writ petition under Art. 227 of the Constitution of India. The present writ petition is found to be devoid of any force and the same is liable to be dismissed. Accordingly, the writ petition is dismissed. No costs. A copy of this order may be sent to both the parties and both the learned Tribunals forthwith.