

(1987) 03 RAJ CK 0082
In the Rajasthan High Court
Case No : Criminal Revision No. 94 of 1987

Om Prakash

APPELLANT

Vs

Smt. Phool Kanwar

RESPONDENT

Date of Decision : 23-03-1987

Acts Referred:

Citation : (1987) 2 WLN 431

Hon'ble Judges : Inder Sen Israni, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Inder Sen Israni, J.—Heard learned Counsel, Shri R.M. Lodha, appearing for the petitioner and Shri J.P. Goyal, learned Counsel for the non-petitioner. The petition is disposed of at the stage of admission as per consent of both the parties.

2. The grievance of the petitioner is that as per the order of this Court dated 27-2-1982 passed in the earlier revision petition, this Court had granted permission to the parties that the defendant may file an affidavit of the nature, which he has filed before this Court and the Court after giving an opportunity to file counter affidavit to the petitioner, will consider this aspect of the matter. The grievance of the learned Counsel is that the learned trial Court vide its impugned order has not permitted the plaintiff to be cross examined on the affidavit filed by him. It is urged that the petitioner will be seriously prejudiced, if the permission to cross-examine the plaintiff on the affidavit filed by the plaintiff is not allowed,

3. Learned Counsel for the non-petitioner has urged that in the earlier order of this Court mentioned above, there is no direction that the trial Court may permit the plaintiff to be cross-examined on the affidavit filed by him. It may be mentioned that the defendant is also ready and willing to be cross-examined on the affidavit filed by him. It has been pointed out that the suit for rent and eviction was filed in the year 1971 and now the appeal is pending in the court of

Additional District Judge No. 1, Ajmer.

4. I have considered the rival contentions of learned Counsel for both the parties and have also perused the impugned order. In my opinion, there is no illegality or material irregularity in the impugned order, which may call for any interference. My attention has been drawn to the case of Central Bank of India Vs. Shri Gokal Chand, wherein, it was observed by their Lordships of the Supreme Court that the Legislature could not have intended that the parties would be harassed with endless expenses and appeal by appeals from the procedural orders. It is open to any party to set forth the error, defect or irregularity, if any, as grounds of objections in his appeal from the final order in the main proceedings. In this case also several revision petitions have been filed and I am of the opinion that if the petitioner has any grievance that could always be agitated in an appeal after the final order has been passed. I, therefore, find that the learned Additional Sessions Judge has not committed any illegality or material irregularity which may call for any interference.

5. In the result the revision petition is dismissed.