
(2012) 09 RAJ CK 0106

In the Rajasthan High Court

Case No : Civil Revision Petition No. 85 of 2012

Om Prakash Soni

APPELLANT

Vs

Dayalram and Others

RESPONDENT

Date of Decision : 11-09-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 7 Rule 11
Rajasthan Court Fees and Suits Valuation Act, 1961 — Section 40, 6

Citation : (2013) 1 WLN 178

Hon'ble Judges : Prem Shanker Asopa, J

Bench : Single Bench

Advocate : Peush Nag, for the Defendant No. 3, for the Appellant;

Final Decision : Dismissed

Judgement

Prem Shanker Asopa, J.—By this revision petition, the defendant No. 3-petitioner has challenged the order dt. 24.07.2012 passed by the Addl, Distt. Judge No. 2, Ajmer in Civil Suit No. 219/2008 whereby his application under Order 7 Rule 11 CPC has been dismissed. Counsel submits that in a civil suit for specific performance filed by the plaintiff-respondent, the relief of cancellation of the sale deed dt. 4.3.2008 having valuation of Rs. 2,95,000/- was also claimed but no separate Court fees has been paid therefor. Counsel further submits that although in the plaint, the relief has been shown as consequential but as a matter of fact, it is a declaratory relief, therefore, Court fees on the valuation of the relief of declaration of the sale deed as null and void, having valuation of Rs. 2,95,000/-, ought to have been paid by the plaintiff.

2. The trial Court, after hearing both the parties, has held that the main relief is the decree of specific performance and the relief of cancellation of sale deed is consequential relief, therefore, as per Section 6 and 40 of the Rajasthan Court Fees and Suits Valuation Act, 1961 no separate Court fees is required to be paid on the relief of cancellation of the sale deed.

3. I have gone through the record of the revision petition and further considered the aforesaid submission of the counsel for the petitioner.

4. On consideration of the same as well as on going through Section 6 and 40 of the Rajasthan Court Fees and Suits Valuation Act, 1961, I am of the view that no Court fees is required to be paid on the consequential relief. In the instant case, the trial Court has rightly held that the relief of cancellation of the sale deed is a consequential relief and the main relief is of specific performance of the contract, therefore, no separate Court fees is required to be paid. The revision petition has no force and the same is dismissed.