

(2024) 03 RAJ CK 0118

In the Rajasthan High Court

Case No : Civil Revision Petition No. 31 Of 2024

Prakash

APPELLANT

Vs

Shyam Sunder Jain And Other

RESPONDENT

Date of Decision : 05-03-2024

Acts Referred:

Code Of Civil Procedure, 1908 — Order 7 Rule 11

Citation : (2024) 03 RAJ CK 0118

Hon'ble Judges : Birendra Kumar, J

Bench : Single Bench

Advocate : Rajat Rajpurohit, Sajjan Singh Rajpurohit

Final Decision : Dismissed

Judgement

Birendra Kumar, J

1. The petitioner is aggrieved by refusal of prayer to reject the plaint under Order 7 Rule 11 CPC by order dated 09.11.2023 passed in Civil Original Suit No.11/2023.

2. Respondent Nos.1 and 2 brought the aforesaid Civil Suit stating therein that the suit properties were public properties containing temples, wells, dharamshalas etc. The plaintiffs were social activist, as such, they had interest in protection of the public property, therefore, they sought relief from the court that defendant Nos.1 and 2 i.e. Collector and his subordinate officers posted at Churu be directed to ensure that the public properties are not damaged by anyone and the heritage constructions be preserved for the use of common people. The plaintiff further sought issuance of permanent injunction against respondent No.3 to 97 restraining them from making encroachment or damage to the suit properties.

3. The petitioner was defendant No.53. The petitioner appeared in the suit and took plea that the suit properties are of petitioner and his family members. They have personal interest in the suit properties, as such, they have full right to use

the said properties.

4. Before the trial Judge as well as before this Court, learned counsel for the petitioner submits that the civil Court had no jurisdiction as the statutory authority under the Rajasthan Escheats Regulation Act, 1956 would be competent to entertain the dispute.

5. After hearing the parties, this Court is of the view that it is not a case of Escheat property. Escheat is a species of reversion.

When a person dies leaving behind no legal heir, the property left behind by the deceased vests in the State and this vesting is called Escheat. The plaint does not reveal that the suit property was a Escheat property nor it is the case of petitioner in the civil suit that the suit property was an Escheat property, rather case of the petitioner was that they are bonafide owner of the said property. Moreover, the Rajasthan Escheat Regulation Act, 1956 does not bar jurisdiction of the civil court. Further, the Collector, who is the authority under the Escheat Act was a party to the suit but has not raised any objection that the suit property is escheat property, therefore, evidently no ground for rejection of plaint under Order 7 Rule 11 CPC is made out.

6. Accordingly, this revision petition is dismissed being devoid of any merit.