
(2012) 08 MP CK 0278
In the Madhya Pradesh High Court
Case No : C.R. No. 255 of 2012

Raghuveer

APPELLANT

Vs

Rajesh Rai

RESPONDENT

Date of Decision : 21-08-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 7 Rule 11

Citation : (2012) 08 MP CK 0278

Hon'ble Judges : J.K. Maheshwari, J

Bench : Single Bench

Advocate : S.P. Singh, for the Appellant;

Final Decision : Dismissed

Judgement

J.K. Maheshwari, Judge

1. Challenging the order dated 9/7/2012 passed by Civil Judge Class-I, Katni in Civil Suit No. 88-A/2012 rejecting the application under Order 7 Rule 11 of CPC filed by the defendant/applicant, this revision has been preferred. In the application it is stated that the plaintiff has filed a suit seeking correction in the revenue record to which the cause of action do not arise to the Civil Court, it is only to the Revenue Court. It is further said that against which order the suit has been filed, that has also not been made clear, therefore, for want of cause of action, the suit is liable to be dismissed.

2. Learned trial Court while rejecting the application has observed that the suit has been filed for deletion of name in revenue entries and also to not to interfere in the possession of the plaintiff. It is not only a suit for correction in the revenue entries and the suit is based upon the title of the plaintiff which cannot be dismissed on the threshold of filing of application under Order 7 Rule 11 of CPC.

3. Learned counsel for the appellant by placing reliance on the judgment of this Court in the case of Bhagwandas Vs. Shriram (since dead) through L.Rs. and others, 2010 3 MPHT 413 , urged that in the light of the said judgment, the order

passed by learned trial Court is unsustainable.

4. After hearing learned counsel for the applicant and on going through the contents of the said judgment, it is apparent that if a person has not asked for declaration of right and title in a suit property and only the prayer for correction of revenue record has been made, in such cases jurisdiction of Civil Court has been barred. As per the order passed by the trial Court, it does not reveal that the suit was filed only for correction of the revenue entries but it also filed for injunction pleading title, therefore, the plea as stated by the applicant/defendant is totally unsustainable. However, in such cases while rejecting application under Order 7 Rule 11 of CPC, the trial Court has not committed any error of jurisdiction and the judgment so relied by the learned counsel for the applicant is not applicable in the present case in view of the forgoing. Accordingly, this revision petition filed by the applicant stands dismissed in limine.