
(2017) 04 AHC CK 0064
In the Allahabad High Court
Case No : Misc. Single No. 8901 of 2017

Ram Dhiraj

APPELLANT

Vs

Addl. Distt. Judge Court No. 3 Ambedkar Nagar

RESPONDENT

Date of Decision : 26-04-2017

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10

Citation : (2017) 2 ARC 286

Hon'ble Judges : Ritu Raj Awasthi, J.

Bench : Single Bench

Advocate : Saryu Prasad Tiwari, Advocate, for the Petitioner

Final Decision : Disposed Off

Judgement

Ritu Raj Awasthi, J.—Since only a trivial question of law is involved in this writ petition, as such, it is being decided finally without issuance of notice and without calling for counter affidavit.

2. Heard learned counsel for the petitioners and perused the records.

3. The instant writ petition has been filed challenging the order dated 21.5.2016, passed by Additional District Judge, Court No.1, Ambedkar Nagar in Civil Revision No.2 of 2014; Divakar & others v. Ram Dhiraj & others, whereby the revisional Court after setting aside order dated 15.10.2013 has remanded the matter back to learned trial court to decide application 34-A in accordance with law.

4. Learned counsel for the petitioners submits that one Bindeshwari Prasad has filed a suit under Order 7, Rule 1 of CPC for cancellation of registered sale deed dated 1.11.2002 executed in favour of the petitioners no.5, 6 and 7. The petitioners no.5, 6 and 7 had appeared as defendants in the suit and filed their written statement. During pendency of the suit the petitioners no.5, 6 and 7 executed a registered sale deed on 7.7.2005 in favour of petitioner nos.1 to 4. The petitioner nos.1 to 4 had moved an application for impleadment under Order 1, Rule 10 CPC which was numbered as paper no.34-A. The said application was

allowed by learned Trial Court vide order dated 15.10.2013. Against the same the opposite parties no.2 to 6 who claim to be successors of Bindeshwari Prasad have preferred the revision. The revisional Court has allowed the revision by recording certain findings and thereby has set aside order dated 15.10.2013.

5. Submission is that in view of the observations and findings recorded by learned revisional court there nothing remains for learned trial court to decide in the application for impleadment after the matter has been remanded by revisional Court. Learned trial court is bound by the findings and observations made by learned revisional court and, as such, the order passed by revisional court is not sustainable in the eyes of law.

6. Considering the submissions made by learned counsel for the petitioner, this Court is of the view that since the application for impleadment has to be decided by learned Trial Court afresh as directed by revisional court, as such, the learned trial court shall decide the same without being influenced by the findings or the observations recorded by learned revisional court while passing the impugned order.

7. The writ petition, as such, is disposed of with aforesaid observations. Learned Trial Court shall make all possible endeavour to decide the application for impleadment 34-A in accordance with law, giving opportunity of hearing to the parties concerned expeditiously.