
(2012) 07 RAJ CK 0045
In the Rajasthan High Court
Case No : Civil First Appeal No. 492 of 2008

Rampat

APPELLANT

Vs

Kuldeep and Others

RESPONDENT

Date of Decision : 04-07-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 96
Rajasthan Tenancy Act, 1955 — Section 42B

Citation : (2012) 07 RAJ CK 0045

Hon'ble Judges : Bela M. Trivedi, J

Bench : Single Bench

Advocate : H.P. Singh, for the Appellant; Sheesh Ram Yadav, for the Respondent

Final Decision : Dismissed

Judgement

Hon"ble Ms. Justice Bela M. Trivedi

1. The present appeal has been filed by the appellant-original plaintiff u/s 96 of C.P.C. challenging the judgment and decree dated 30.8.2008, passed by the Additional District Judge(Fast Track) Behror, Alwar,(hereinafter referred to as the trial Court)in Civil suit No.36/2007, whereby the trial Court has dismissed the suit of the plaintiff seeking specific performance of the agreement dated 10.1.1994, executed by late Shri Nathu Ram, father of the respondent No. 1 and husband of the respondent no.2,respectively. The short facts giving rise to the present appeal are that late Shri Nathu Ram, father of the respondent Nos. 1 and husband of the respondent no. 2 had allegedly executed an agreement on 10.1.1994, to sell the suit land to the appellant-plaintiff for a consideration of Rs. 80,000/-. As per the case of the appellant-plaintiff, the said Nathu Ram had also executed a receipt in favour of the plaintiff with regard to the amount of Rs. 80,000/- and handed over peaceful possession of the land in question. According to the appellant, he was put in possession of the said land since then and was cultivating the same till the date of filing of the suit. The said suit was resisted by the respondents-defendants by filing their written statement denying the

allegations made in the plaint and further contending interalia that the defendants belonged to the Schedule Caste and hence the land in question which was an agricultural land, could not be sold to the plaintiff, and that the suit was also barred by the law of limitation.

2. The trial Court after framing the issues and recording the evidence adduced by the parties, decided all the issues against the plaintiff and dismissed the suit by the impugned judgment and decree. Being aggrieved by the same, the present appeal has been filed.

3. It has been submitted by learned counsel for the appellant that the trial court has not properly appreciated the evidence adduced by the parties. According to him, if the specific performance of the agreement in question was not possible, the trial Court should have granted the alternative prayer for the refund of Rs. 80,000/- paid by the appellant to said late Shri Nathu Ram while executing the agreement in question.

4. However, the learned counsel for the respondents supporting the judgment passed by the trial court has submitted that there being no perversity or illegality in the impugned judgment and decree passed by the trial Court, the appeal deserves to be dismissed.

5. Having regard to the submissions made by the learned counsels for the parties and to the impugned judgment passed by the trial Court, the question arising for determination before this Court is, whether the suit of the appellant-plaintiff was barred by the law of limitation and also barred under the Rajasthan Tenancy Act, 1954. It is not disputed that the agreement in question for which specific performance was sought was 10.1.1994, and the suit was filed by the appellant-plaintiff in the year 2007, that is practically after 13 years of the execution of the agreement. It is also not disputed that the land in question was an agricultural land and could not have been sold to the appellant-plaintiff, who belonged to the general caste, in view of Section 42B of the Rajasthan Tenancy Act 1955. The trial Court, therefore, has rightly appreciating the evidence on record, come to the conclusion that the suit was barred by the law of limitation and barred under the provisions contained in Rajasthan Tenancy Act. There being no illegality or perversity in the impugned order and the decree passed by the trial Court, the same deserves to be confirmed. The appeal being devoid of merits deserves to be dismissed and is accordingly dismissed.