

(2000) 07 MP CK 0027
In the Madhya Pradesh High Court
Case No : Civil Revision No. 824/99

Ratan Singh

APPELLANT

Vs

Ratanlal

RESPONDENT

Date of Decision : 13-07-2000

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 6 Rule 5

Citation : (2000) 3 MPHT 425

Hon'ble Judges : Jayant Govind Chitre, J

Bench : Single Bench

Advocate : A.S. Kutumble, for the Appellant; S.M. Jain, for the Respondent

Final Decision : Allowed

Judgement

J.G. Chitre, J.—The petition is decided finally at this stage for avoiding delay in disposal of the suit in context of which this Order has been passed.

2. Shri Kutumble pointed out the averments made by opponents (original plaintiffs) in Para 2 schedule of the plaint wherein the area of land bearing survey Nos. 63, 65 has been shown as 4.31 acres. He pointed out averments in Para 3 of the plaint in the schedule where area of survey Nos. 63, 65 has been shown as 4.31 hectares. He further pointed out the schedule connected with Para 7 of the plaint wherein area of survey No. 63 has been shown 8.28 hectares and area of survey No. 65 has been mentioned as 8.26 hectares. By pointing out this sequence and details, Shri Kutumble submitted that when application was moved by the petitioner for better particulars in view of Order 6, Rule 5 C.P.C., the trial Court rejected it by coming to the conclusion that it is a matter pertaining to evidence. In this context while advancing the submission Shri S.M. Jain, submitted that parties are in second round of the litigation after getting the verdict from the High Court in first round of the battle. He submitted that when that is so, the trial Court was right in coming to the conclusion that there was no need of directing the opponents to furnish better particulars to the petitioner.

3. Provisions of Order 6 Rule 5 CPC provide--

"Further and better statement, or particulars-- A further and better statement of the nature of the claim or defence or further and better particulars of any matter stated in any pleading, may in all cases be ordered, upon such terms, as to costs and otherwise, as may be just."

4. The provisions of Order 6 Rule 5 are to be put in operation for better administration of justice, therefore, the words "May in all cases" and "As may be just" have to be considered with its appropriate weight and seriousness. Though the word "May" has been used in this assembly of words, its tone is mandatory because that has to be done for the purpose of securing the justice. It is to be noted that it has been indicated by words "May in all cases" that in all cases whenever it is necessary, the party who has been asked to furnish better particulars, should be directed by the Court to furnish better particulars to the party who is demanding that. It is a weapon in the hands of a party in litigation to get itself informed in better way by getting better particulars. So also it is a weapon for the purpose for enforcing the adversary to come up with all information which is in its knowledge. It impliedly restricts suppressive activities of a litigant in litigation. It enables the Court to get better averments in the suit as if brought to surface by process of churning. It is to be used by the parties for the purpose of bringing all best possible material to the notice of the Court for the purpose of enabling the Court to find out the truth and thereafter to pass decree if at all, the suit is to be decreed or to pass a decree otherwise, if the suit is to be dismissed. Whenever better particulars are solicited, generally, the Court should not be reluctant in directing adversary to provide such better particulars to the party who is demanding it.

5. In the present matter the parties had already a round of litigation up to the level of High Court. When that was so, the Court should have been particular in seeing that no confusion arises at the time of trial on account of incorrect, faulty, defective averments. The way in which the area has been increased in the Schedule, may be susceptible to multiple inferences. It may smell of scheming attempt to increase the area of the land. The Court is likely to be misled by such faulty averments in the plaint. When that was so, the Court should have been more particular in granting prayer of the litigant because indirectly it was to help the Court for the purpose of having cession over a suit which has been studded with best possible averments so far as informative aspect is concerned. By rejecting the application, the Court has decided to bring an obstacle in its way for progressing with the trial. The Court has left a way open which would engulf it in chaos and obscurity so far informative aspect of the plaint is concerned. While dealing with prayer made by the litigants at interim interlocutory stage, the Court has to be alert in seeing that it is keeping its way unobstructed.

6. Unfortunately, the trial Court has lost sight of all these things and therefore, it landed in error in rejecting the prayer made by the petitioner. The impugned Order is hereby set aside. The trial Court is directed to direct the opponents to

furnish better particulars as prayed for by the petitioner and that too within two weeks, after getting certified copy of this order. Trial Court is hereby directed to decide the suit within eight months. Petition stands allowed, with no Order as to costs. Record be despatched to the trial Court as early as possible. Parties to appear before trial Court on 25-7-2000.