
(1998) 03 RAJ CK 0062
In the Rajasthan High Court
Case No : Civil Revision No. 655 of 1997

Ravi Setia

APPELLANT

Vs

Somlal Setia

RESPONDENT

Date of Decision : 03-03-1998

Acts Referred:

Citation : (1999) 1 CivCC 334 : (1998) 2 RLW 805

Hon'ble Judges : Shiv Kumar Sharma, J

Bench : Single Bench

Advocate : Dinesh Maheshwari, for the Appellant; M.C. Bhoot, for the Respondent

Final Decision : Dismissed

Judgement

Shiv Kumar Sharma, J.—Instant revision impugns the order dated April 28, 1997 of the learned Additional District Judge No.2, Ganganagar, whereby the issues 7 and 8 were decided against the plaintiff petitioner (for short the plaintiff).

2. Brief resume of the facts is that on the basis of the pleadings of the parties, the learned trial Court framed issues 7 and 8 as under:

(English translation)

7. Whether the agreement is inadmissible in evidence on the ground that it was not properly stamped?

8. Whether registration of agreement dated January 18,1984 is necessary? If yes, what is the effect?

3. The learned trial Court decided these issues treating them as preliminary issues and observed that the document dated January 18,1984 cannot be defined as agreement to sale but it was for relinquishment deed, therefore, it was necessarily registered u/s 17 of the Stamps Act. Accordingly, the issues 7 and 8 were decided in favour of the defendant.

4. Mr.Dinesh Maheshwari, learned Counsel appearing for the plaintiff canvassed that the document dated January 18, 1984 was wrongly interpreted by the learned Court " below. It was not within the scope of issues 7 and 8 to have interpreted the document. The issues were framed with the specific basis that the document in question was an agreement. It is evident that none of these issues were related to the interpretation of the document. The learned Counsel placed before me the copy of the document. dated January 18,1984.

5. On the other hand, Mr.MC.Bhoot, learned Counsel appearing for the defendant, supported the impugned order and attracted my attention towards the provisions contained in Order 13, Rule 3, CPC as well as Rule 51 of the Rajasthan General Rules (Civil), 1986. Reliance was placed on Javer Chand and Others Vs. Pukhraj Surana, and Jagdish and other Vs. Raghunath and others, 1997(2) RLW Raj 1020.

6. I have given mu anxious consideration to the rival contentions and carefully scanned the material on record.

7. It appears that the learned trial Court in order to arrive at the findings as to whether the document in question was admissible in evidence and whether it was compulsorily registrable thought it proper to consider the nature of the document and after scrutinising the document in question the learned trial Court observed that the, document in question was not agreement to sale but it was a relinquishment deed. There is nothing illegal to consider the nature of the document at the stage of examining its admissibility.

8. In Javed and others Vs. Pukhraj Surana (supra), their Lordships of the Supreme Court propounded that the Court has to judicially determine the matter as soon as the document is tendered in evidence and before it is marked as soon as the document is tendered in evidence and before it is marked as an exhibit in the case.

9. In Jagdish Vs. Raghunath (supra), it was indicated that view taken by the Full Bench of this Court in Harak Chand Vs. State of Rajasthan, 1970 RLW 320", still holds good. In Harak Chand's case (supra), it was laid down by the Full Bench of this Court that whether a particular evidence was admissible according to law or not in a question of law which the trial Court was entitled to decide that question it cannot be said that such error was in any way an error in the manner of exercise of jurisdiction.

10. A perusal of the impugned order demonstrates that after scrutinising the document in question the trial Court observed that the said document was compulsorily. registrable and, therefore, it was inadmissible in evidence. In the ultimate analysis, I am unable to persuade myself to agree with the submissions canvassed by the learned Counsel for the plaintiff. I see no jurisdictional error in the order impugned and if it is allowed to stand, it would not occasion failure of justice.

11. Accordingly, the revision stands dismissed.