
(2011) 08 RAJ CK 0060
In the Rajasthan High Court
Case No : Civil Writ Petition No. 10222 of 2011

Shyoji @ Shiv Prakash

APPELLANT

Vs

Hanuman and Others

RESPONDENT

Date of Decision : 26-08-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10
Rajasthan Tenancy Act, 1955 — Section 188, 88, 89, 92A

Citation : (2011) 08 RAJ CK 0060

Hon'ble Judges : Narendra Kumar Jain, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Narendra Kumar Jain, J.—Heard learned counsel for the Petitioner.

2. Petitioner submitted that Respondent No. 1 Hanuman filed a suit against Respondent No. 2- Mathuri and Respondent No. 3 - State of Rajasthan in the Court of SDO, Keshorai Patan under Sections 88, 89, 92A and 188 of the Rajasthan Tenancy Act, wherein Petitioner filed an application under Order 1 Rule 10 Code of Civil Procedure, which was dismissed. Thereafter, he preferred revision petition before Revenue Board, during pendency of revision petition before the Revenue Board, the main suit itself was disposed off, therefore, his revision petition was dismissed vide order dated 12th February, 2007 as infructuous. Thereafter, he preferred first appeal before Revenue Appellate Authority against final judgment of S.D.O. along with an application seeking permission to file appeal, as he was not a party in the suit. Revenue Appellate Authority dismissed the application and consequently dismissed the first appeal also. Thereafter, Revenue Board also dismissed second appeal and subsequently review petition also.

3. He further submitted that in these circumstances, since Petitioner was not a party and matter was not examined on merits and the said judgments were not binding on the Petitioner, therefore, Petitioner may be permitted to withdraw this

writ petition with liberty to file a fresh independent suit, in accordance with law, about his rights in the competent court. Prayer is allowed.

4. Writ petition as well as stay petition both are, accordingly, dismissed as withdrawn with liberty, as prayed for.