
(2018) 09 MP CK 0026
In the Madhya Pradesh High Court
Case No : Mp Of 3799 Of 2018

Smt. Archana Kaushal And Ors	Vs	APPELLANT
Ravikant And Ors		RESPONDENT

Date of Decision : 06-09-2018

Acts Referred:

Constitution of India, 1950 — Article 227
Code Of Civil Procedure, 1908 — Order 14 Rule 5

Citation : (2018) 09 MP CK 0026

Hon'ble Judges : Sheel Nagu, J

Bench : Single Bench

Advocate : R.P. Rathi, Pratip Visoriya

Final Decision : Dismissed

Judgement

1. Supervisory jurisdiction of this Court is invoked to assail the interlocutory order dated 02.08.2018 passed by 1st Civil Judge Class-I Ashok Nagar OS No.59A/2016 whereby an application under Order 14 Rule 5 CPC for adding two additional issues preferred by defendant has been rejected by the learned trial Judge on the ground that subject matter of proposed additional issues is covered by originally framed issue by petitioner No.1 vide order dated 05.07.2018.

2. Learned counsel for the rival parties are heard.

3. Learned counsel for the petitioners/defendants submits that it was incumbent upon the learned trial Judge to have framed the two additional issues proposed by the defendant in the absence of which the real issue involved cannot be resolved.

4. For ready reference and convenience, the additional issues proposed to be framed by the respondent No.1 are reproduced below;

अत र कवद ववषय कम क7&

कय वदगस भवन अवसस ग पलग जअश कनग म०प० ददन क 11-10-2011 क पर वर कबटब \$ क% तलस&

सर्व'क(त जपन स\$ पत वद+ कम क1 क\$ पत] पत वद+ कम क2]3 क\$ वप क बटब \$ म,/आपप\ ह

अत र कवद ववषय कम क8&

कय वदगस भवन बटब \$ म, पप ह न\$ क\$ पश सवग2य म/क\$ शक/म उनक% म(तय/ उप पत वद+गणवदगस भवन म, अपन वयवसय एव तनवसक ह\$\\ह8

5. The original issues framed by the trial Court on 5. 06.2018 which are six in number are further reproduced below for ready reference and convenience and comparision:

1- कय वदगस भवन वर: कम 17क ग पलग ज अश कनग

सजसक\$ प;व: म, &/ल' भ ;सतमउप च ववभगपद सट ऑद>सक% द+व]

पसशमम, आम स] उत म, अम न प जब' क]भवनदस@णम,

स/न'लक/म अ क भवन सस ह8 क\$ एकमत भवन सवम' वद+गण

ह8\

2- कय वदगस भवन प पत वद+ कम क01 लगय 04 दव पस /त ददन 25क-10-2010 क\$ च वष: प;व: स\$ भई भ 'ज\$ ह न\$ स\$ कबD क तलय ह8\

3-(अ) कय उकभवन प पत वद+ द कबD क ल\$न\$ स\$ वद+गणक एकल&रपय\$ पत वष: क% छत ह \ह+ ह8

(ब) यदद ह8] कय वद+गण1 ल&रपए पत वष: क\$ मन स\$ कबD पतप ददन क कछत प;त@मध्यव : 2 लभपप क न\$ क\$ अत]क + ह8\

4- कय वद+गणद कबD बपस' ह\$ / पत वद+गणक ववत]क न दटसन द\$न\$ क\$ क न अवचनश'लह8\

5- कय वद+ द पस / दव\$ म, वदक णक अभव\ ह8

6- सहय एव वयय\

6. An comparative analysis of the originally framed issues and the two additionally proposed issues by the defendant, it comes to light that the original issue No.1 was as to whether the plaintiff is the sole owner of the suit property or not?

7. After having heard the learned counsel for the rival parties and perused the pleadings contained in the plaint and the WS brought on record, this Court is of the considered view that the originally framed issue No.1 is comprehensive enough to include within its sweep the subject matter of the two additionally proposed issues by the defendant in the absence of which the suit can be decided (the controversy between parties involved in the suit can be resolved) and therefore, the two additionally proposed issues by the defendant superfluous not necessary for determining the matter in controversy.

8. In view of above, no fault with the impugned order in the absence of any jurisdictional transgression and therefore, this petition filed under Article 227 of

the Constitution of India deserves to be and is hereby rejected.