

(2017) 12 RAJ CK 0051
In the Rajasthan High Court
Case No : 1908 of 2015

Smt. Laxmi Devi W/o Shri Ram Singh	APPELLANT
Vs	
Jogendra Singh S/o Late Shri Jugal Kishore	RESPONDENT

Date of Decision : 19-12-2017

Acts Referred:

Citation : (2017) 12 RAJ CK 0051

Hon'ble Judges : Dinesh Mehta

Bench : SINGLE BENCH

Advocate : K.L. Vishnoi, Sanjay Nahar

Final Decision : Allowed

Judgement

1. By way of the present writ petition, the petitioner has challenged the order dated 01.12.2014, whereby the petitioners' evidence has been closed.

2. Challenging the order dated 01.12.2014 passed by the learned Senior Civil Judge, Mount Abu (hereinafter referred to as the "Trial Court"), learned counsel for the petitioners contended that the learned Court below has erred and hastened in closing the petitioners' right of leading evidence. Learned counsel for the petitioners submitted that the facts obtaining in the present case warranted at least one opportunity to be given to the petitioners for filing affidavit(s) and leading appropriate evidence.

3. This Court, while issuing the notices on 03.03.2015, has stayed further proceedings in the said suit.

4. Mr. Sanjay Nahar, learned counsel for the respondent-plaintiff supporting the order impugned, contended that the petitioners' conduct has been non-cooperative, for which, they are not entitled for any indulgence or sympathetic consideration.

5. Having heard learned counsels for the parties, keeping the interest of justice as paramount consideration, this Court deems it expedient to allow one opportunity to the petitioners for leading evidence.

6. The writ petition is, therefore, allowed subject to a payment of cost of Rs.3,000/- to the respondent-plaintiff.

7. On the next date, the petitioners shall produce her affidavit or affidavit of any other witness(es), while giving copies thereof to the counsel for the plaintiff at least three days in advance. The petitioners shall also keep themselves and all other witnesses ready for cross-examination on such date. The learned Trial Court shall complete the evidence of the petitioners-defendants on such date or any other subsequent date, if circumstances so warrant. On failure to submit the affidavit or keeping the witness (es) ready for cross-examination, no further opportunity shall be granted to the petitioners.

8. Needless to observe that payment of cost of Rs.3,000/- shall be a pre cursor to the grant of opportunity.

9. The writ petition is allowed and the order dated 01.12.2014 is quashed and set aside in the manner indicated above.