
(1993) 08 RAJ CK 0025

In the Rajasthan High Court

Case No : Civil Revision Petition No. 180 of 1992

State of Rajasthan

APPELLANT

Vs

Rikhab Das Jain

RESPONDENT

Date of Decision : 17-08-1993

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 11 Rule 14, Order 8 Rule 8A
Evidence Act, 1872 — Section 114

Citation : AIR 1994 Raj 114

Hon'ble Judges : Milap Chand Jain, J

Bench : Single Bench

Advocate : H.R. Panwar, for the Appellant; Dinesh Maheshwari, for the Respondent

Final Decision : Dismissed

Judgement

Milap Chandra Jain, J.—This revision petition has been filed by the defendant-petitioner against the order of the learned Addl. District Judge No. I, Jodhpur dated February 17, 1992 by which its application moved u/s 151, C.P.C. for taking on record certain original documents which could not be filed earlier has been dismissed. The facts of the case giving rise to this revision petition may be summarised thus.

2. " The plaintiff-respondent has filed a suit for the recovery of Rs. 2,53,000/- against the State of Rajasthan (defendant-petitioner). By order dated Februarys, 1986, the defendant-petitioner was directed to produce certain documents in original in the Court. Last opportunity was given to file them by September 27, 1991. The documents were not filed even by September 27, 1991. On October 30, 1991, the Assistant Engineer (P.W.D.) Om Prakash appeared and stated that the original documents could be filed with the permission of the Chief Engineer and not otherwise. The trial Court fixed November 22, 1991 for producing the original documents. Even on this date, the documents were not produced and the same day it was ordered that an adverse inference would be drawn against the

defendant-petitioner for not producing the original documents. Against this order, an application u/s 151, C.P.C. was moved on 12-2-1992 with the averment that the original documents could not be produced on 22-11-1991 due to the illness of the Executive Engineer Shri B. L. Gandhi. After hearing the learned counsel for the parties, the trial Court dismissed this application by its impugned order.

3. Arguments of the learned Government Advocate and the learned counsel for the plaintiff-non-petitioner have been heard and record has been perused.

4. There is no substance in the revision petition. Admittedly, order was passed as early as on February 3, 1986 for the production of original documents which were admittedly in possession of the defendant-petitioner. It has been averred in para No. 3 of the revision petition that these documents are very important in nature and have great relevancy in the suit. Despite this, the defendant did not care to file them. No reason has been shown either in revision petition or during arguments as to why the documents could not be produced during the period of five years. As a matter of fact, the trial Court had been too liberal in granting adjournments ranging over five years for producing the original documents. It repeatedly disobeyed the mandatory provisions of the proviso (b) of Sub-rule (2) of Rule 1 of Order XVII of the Civil P. C. This proviso runs as under:--

"(b) No adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party."

On 22-11-1992, the trial Court had no option) but to pass order for raising adverse inference : against the defendant-petitioner on account of the non-production of the original documents which were admittedly important and relevant in the suit.

5. Under these facts and circumstances, it cannot be said that the learned trial Court acted with material irregularity or illegality in the exercise of its jurisdiction in rejecting the application dated 12-2-1992 moved u/s 151, C.P.C. by the defendant-petitioner.

6. This case shows as to how negligently and carelessly Government cases are conducted, resulting in adverse orders against it. If the officer-in-charge of the case would have carefully read the order appointing him as such, the order under challenge could not have been passed against the Government and the valuable time of the various officers of the Government and money would not have been wasted during this long period of seven years (1986-93). The officer-in-charge has rendered himself liable for disciplinary action as provided in the order appointing him as such. If the Government is anxious and keen to effect improvement in this direction, necessary action should be taken against all concerned whose negligence and carelessness resulted in the passing of the adverse order against it.

7. Accordingly, the revision petition is dismissed with costs. Copies of this order may be sent to the Legal Remembrancer and also to the Secretary, Public Works

Department, Government of Rajasthan, Government Secretariat, Jaipur for information and necessary action.