
(2014) 01 RAJ CK 0030
In the Rajasthan High Court
Case No : Civil Second Appeal No. 177/2012

Surya Prakash

APPELLANT

Vs

LRs. of Kana Devi

RESPONDENT

Date of Decision : 15-01-2014

Acts Referred:

Citation : (2014) 2 WLN 382

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Manish Shishodia, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Arun Bhansali, J.—This appeal is directed against the judgment and decree dt. 28.10.2010 passed by Civil Judge (Junior Division), Sojat, District - Pali ("the trial Court"), whereby the suit filed by the plaintiff under Sec. 11 of the Rajasthan Pre-emption Act, 1966 ("the Act") has been dismissed and the appellate judgment and decree dt. 04.11.2011 passed by the Additional District Judge, Sojat, District - Pali ("the appellate Court"), whereby, the appeal filed by the appellant - plaintiff has been rejected. The suit was filed by the plaintiff seeking pre-emption on the property on the basis of a common wall. Both the trial Court and appellate Court as noticed hereinabove have concurrently found against the plaintiff and dismissed the suit.

2. The Division Bench of this Court in the case of LR"s of Smt. Sire Kanwar Maloo Vs. Shri Daudas Mantri, , while dealing with the issue has held that the Co-owner of a wall situated between two adjacent immovable properties are not Co-sharer within the meaning of Section 2(1) of the Act read with other provisions of the Act so as to give right to the Co-owner of the common wall to preempt the transfer of other immovable property under Sec. 6(1) of the Act. In view of the law laid down by the Division Bench of this Court in the case of Smt. Sire Kanwar Maloo (supra), no case for interference is made out. The second appeal filed by

the appellant is dismissed.