

(2016) 01 RAJ CK 0157

In the Rajasthan High Court

Case No : Civil Writ Petition No. 14217 of 2015

Yogesh

APPELLANT

Vs

Sohanlal Mareja

RESPONDENT

Date of Decision : 12-01-2016

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10, Order 1 Rule 8

Citation : (2016) 3 WLN 412

Hon'ble Judges : Mr. Arun Bhansali, J.

Bench : Single Bench

Advocate : Mr. Vijay Jain, Advocate, for the Appellant

Final Decision : Dismissed

Judgement

Mr. Arun Bhansali, J.—This writ petition has been filed by the petitioner aggrieved against the order dated 30.11.2015 passed by the trial court, whereby, the application filed by the petitioner seeking impleadment has been rejected.

2. The respondent-plaintiffs filed suit for permanent injunction, along with the suit, an application under Order I, Rule 8 CPC was filed, regarding which, notice was issued by the trial court.

3. The petitioner filed the application with the following averments:-

"mijksDr vuoku lnj ds nkok esa vkt dh rkjh[k is"kh fuf"pr gSA oknh lksguyky oxSjk us ekStwn okn ,d gh fgr esa lHkh O;fDr;ksa dh vkSj ls is"k fd;k gSA fooknxzLr iflj izfroknh la[k 5 ds vkf/kiR; o /kkj.k esa gS vkSj ekSds ij mu }kjk lapkfy xfrfof/k;ka py jgh gSA fookfnr iflj okMZ la[k 19 lkaxfj;k esa fLFkr gSA izkFkhZ lkaxfj;k ftyk guqekux<+ dk LFkkbZ fuoklh gSA izkFkhZ dk vU; ukxfjdx.k ds lkFk okn esa fgr fufgr gSA ,sls esa izkFkhZ dks okn esa crkSj izfroknh la[k 8 i{kdkj la;ksftr fd;k tkuk vko";d o U;k;fgr esa gSA oknhx.k us okn esa gd vke o [kkL dks i{kdkj cuk;k gqvk gSA"

4. After hearing the parties, the trial court came to the conclusion that in the

facts and circumstances of the case, the present petitioner was not a necessary party and rejected the application.

5. It is submitted by learned counsel for the petitioner that the trial court was not justified in dismissing the application, inasmuch as, the petitioner had applied pursuant to the notice under Order I, Rule 8 CPC and the fact as to whether the petitioner's presence was not necessary could not have been examined by the trial court and, therefore, the order impugned cannot be sustained.

6. Reliance has been placed on the judgment of the Supreme Court in the case of *The Chairman, Tamil Nadu Housing Board, Madras v. T.N. Ganapathy*, AIR 1990 SC 642.

7. I have considered the submissions made by learned counsel for the petitioner and have perused the material available on record.

8. A bare look at the application and the contents as quoted hereinbefore would reveal that the petitioner had made only a one line contention that he had interest in the suit, however, the petitioner did not disclose as to what was the nature of interest and as to how he was interested in the suit. Further, the application was not supported by an affidavit.

9. Though, it is true that the suit was filed along with an application under Order I, Rule 8 CPC and anyone interested in the suit could be impleaded as a party to the suit pursuant to the notice published by the Court, however, every person seeking to apply pursuant to the notice is bound to disclose that he is interested and the reasons thereof and it is open for the trial court while considering the application to be prima facie satisfied regarding the interest of the applicant.

10. As noticed hereinbefore, the application filed by the petitioner had been most cursory and did not disclose any reason whatsoever to indicate that he had in fact any interest in the suit.

11. In view thereof, the order passed by the trial court, for different reasons, does not require any interference.

12. Consequently, the writ petition is dismissed.