

Omprakash Vs Satyanarayan

Court: Rajasthan High Court

Date of Decision: July 6, 2023

Acts Referred: Code Of Civil Procedure, 1908 " Section 151, Order 7 Rule 11
Rajasthan Tenancy Act, 1955 " Section 207

Hon'ble Judges: Rekha Borana, J

Bench: Single Bench

Advocate: Sandeep Saruparia, Nikhil Ajmera, Vinay Jain, Darshan Jain

Final Decision: Dismissed

Judgement

Rekha Borana, J

1. The present regular appeal has been preferred against the order dated 12.02.2021 passed by Additional District Judge No.2, Bhilwara in Civil

Original Suit No.55/2020 whereby the application under Order VII Rule 11 read with Section 151 of the Code of Civil Procedure as preferred by the

defendants has been allowed and consequently the suit as preferred by the plaintiff has been dismissed.

2. Learned counsel for the appellant fairly conceded that so far as the finding of the Court below on the issue of jurisdiction is concerned, the same is

in consonance with law and the same be affirmed by this Court. However, he submits that the other finding regarding the issue of limitation deserves

to be quashed and set aside as once the Court below had reached to the conclusion that the Court did not have jurisdiction to entertain the suit, it could

not have gone into the other issues whatever it may be.

3. Per contra, learned counsel for the respondent submits that the Court did have jurisdiction to do so.

4. A perusal of the order impugned dated 12.02.2021 makes it clear that the Court below has specifically concluded that the suit was not maintainable

before the Civil Court in terms of Section 207 of the Rajasthan Tenancy Act, 1955. In the specific opinion of this Court, once the Court reaches to a

conclusion that it does not have jurisdiction to hear a matter, it cannot then proceed on to consider or decide any other issue. As the counsel for the

appellant has fairly conceded the finding on the issue of jurisdiction to be valid, in the overall facts and circumstances of the case, the finding regarding

the suit being barred by law, to be specific, in terms of Section 207 of the Rajasthan Tenancy Act, 1955, is upheld and the order dated 12.02.2021 is

affirmed to the said extent.

5. The finding as reached by the trial Court on the issue of limitation is hereby set aside. The parties would be at liberty to raise the said issue before

the Revenue Court and the Revenue Court would be at liberty to decide the same in accordance with law.

6. The appellant is granted liberty to move before the appropriate forum/revenue Court within a period of three weeks from now. The interim order

dated 20.12.2021 passed by this Court shall remain in existence for a further period of three weeks.

7. It is made clear that the said order would remain in existence only for a period of three weeks from now and not subsequent to that.

8. In view of the order dated 12.02.2021 been affirmed to the extent of jurisdiction, the present appeal does not survive and the same is therefore,

dismissed.

9. Stay petition and all the pending applications also stand dismissed.

10. The record be sent back forthwith.