

(2016) 10 RAJ CK 0017

RAJASTHAN HIGH COURT

Case No: Civil Writ (CW) No. 4603 of 2016

Dharamveer Singh

APPELLANT

Vs

Urban Improvement Trust

RESPONDENT

Date of Decision: Oct. 20, 2016

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 1 Rule 10
- Constitution of India, 1950 - Article 226

Citation: (2016) 4 WLN 435

Hon'ble Judges: Mr. Sandeep Mehta, J.

Bench: Single Bench

Advocate: Mr. Pankaj Sharma, Advocate, for the Petitioner; Mr. Sajjan Singh, Advocate, for the Respondent

Final Decision: Allowed

Judgement

Mr. Sandeep Mehta, J. - Heard learned counsel for the parties. Perused the material available on record.

2. By way of the instant writ petition, the petitioner has approached this Court being aggrieved of the order dated 15.3.2016 passed by the Divisional Commissioner, Udaipur in Appeal No.5/2015 whereby, the application submitted by the respondent U.I.T., Udaipur before the appellate Court under Order 1, Rule 10 read with Section 151 C.P.C. was allowed.

Learned counsel for the petitioner urges that the petitioner submitted detailed objections against the application filed by the respondent U.I.T. under Order 1, Rule 10 C.P.C. before the Divisional Commissioner and contested the same. The file was posted on 15.2.2016 on which date, lawyers abstained from work.

Thereafter, the matter was posted on 15.3.2016. On that day, the petitioner himself was present before the Divisional Commissioner and on behalf of the respondent

U.I.T., time was sought for filing a fresh vakalatnama but on the very same day, without providing any opportunity of hearing whatsoever and without assigning any reason, the application was hastily allowed by the Divisional Commissioner by passing a cryptic non-speaking order. He urges that the impugned order being totally laconic and non-speaking, deserves to be quashed and set aside.

Learned counsel for the respondent is not in a position to dispute the fact that the impugned order is cryptic, laconic and non-speaking.

3. I have considered the submissions advanced at the Bar and have gone through the material available on record as well as the impugned order.

The circumstances as available on record reveal that the U.I.T., Udaipur had engaged a new counsel on 15.3.2016 and the counsel did not even argue the matter before the Divisional Commissioner, who, without giving any reasons whatsoever in hot haste, accepted the application by passing an absolutely cryptic and laconic order. Thus, the impugned order being totally illegal cannot be sustained.

Resultantly, the instant writ petition deserves to be and is hereby allowed. The impugned order dated 15.3.2016 is quashed and set aside. The matter is remitted back to the Divisional Commissioner to pass a fresh detailed and reasoned order on the application preferred by the respondent U.I.T. under Order 1, Rule 10 C.P.C. after providing an opportunity of hearing to the parties.

4. Stay petition also stands disposed of. No order as to costs.