

(1992) 01 MP CK 0008

Madhya Pradesh High Court (Gwalior Bench)

Case No: S.A. No. 406 of 1978

Umashankar Sharma

APPELLANT

Vs

Man Singh Narbar Singh and
Others

RESPONDENT

Date of Decision: Jan. 24, 1992

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 1 Rule 3B

Citation: (1992) 37 MPLJ 292 : (1992) MPLJ 292

Hon'ble Judges: K.K. Verma, J

Bench: Single Bench

Advocate: J.P. Sharma, for the Appellant; K.B. Chaturvedi, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

K.K. Verma, J.

Counsel are heard on appellant's application dated 17-12-1991 purporting to be under Order 1, Rule 3B inserted in the Code of Civil Procedure, 1908, by a Madhya Pradesh Amendment Act.

The suit was the heading "Suit for declaration of title and possession of land." In the relief clause the first relief was: "Delivery of possession of agricultural land." At paragraph 2 of the instant application it has been averred that the appellant does not have any agricultural land except the lands in dispute and that no ceiling case is pending in respect of his lands and that the appellant has no information of any such proceedings. Order 1, Rule 3B runs as follows :

"3B. Conditions for entertainment of suits. - (1) . No suit or proceeding for, -

(a) declaration of title or any right over any agricultural land, with or without any other relief; or

(b) specific performance of any contract for transfer of any agricultural land with or without any other relief, shall be entertained by any Court, unless the plaintiff or applicant, as the case may be, knowing or having reason to believe that a return u/s 9 of the Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 (No. 20 of 1960) in relation to land aforesaid has been or is required to be filed by him or by any other person before competent authority appointed under that Act has impleaded the State of Madhya Pradesh as one of the defendants or non-applicants, as the case may be, to such suit or proceeding.

(2) No Court shall proceed with pending suit or proceeding referred to in sub-rule (1) unless, as soon as may be, the State Government is so impleaded as a defendant or non-applicant.

Explanation. - The expression "suit or proceeding" used in this sub-rule shall include appeal, reference or revision, but shall not include any proceeding for or connected with execution of any decree or final order passed in such suit or proceeding."

In the instant case clause (a) of sub-rule (1) of Rule 3B is fulfilled. However, the averment in paragraph 2 of the application does not bring the case under the following provisions of clause (b) of sub-rule (1), Rule 3B :

".....Unless the plaintiff or applicant, as the case may be, knowing or having reason to believe that a return u/s 9 of the Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960, in relation to land aforesaid has been or is required to be filed by him or by any other person before competent authority appointed under that Act."

Shri Chaturvedi says that on his part he too does not have any material on the lines referred to in clause (b).

In the result, the application under Order 1, Rule 3B, CPC is not tenable .and is not at all necessary in this case. The application is dismissed.

The appeal will now be listed for final hearing after issuing S.P.C. to unrepresented respondents.

Certified copy to go to the parties by the next working days.