

Rajaram Vs State of M.P. and Others

Court: Madhya Pradesh High Court (Indore Bench)

Date of Decision: July 18, 2003

Acts Referred: Civil Procedure Code, 1908 (CPC) â€” Section 100
Madhya Pradesh Land Revenue Code, 1959 â€” Section 114, 117

Citation: (2003) 4 MPHT 163

Hon'ble Judges: A.M. Sapre, J

Bench: Single Bench

Advocate: S.G. Gokhle, for the Appellant;

Final Decision: Dismissed

Judgement

A.M. Sapre, J.

Two Courts have dismissed plaintiffs suit for declaration of title in relation to land in suit. It is against this concurrent

dismissal, the plaintiff has come up in second appeal u/s 100 of CPC contending that the appeal involves substantial question of law within the

meaning of Section 100 *ibid*. The question, thus, that arises for consideration in this appeal is, whether any substantial question of law arises in this

second appeal as contemplated u/s 100 *ibid*. The impugned judgment/decreed is dated 16-12-2002, passed by learned IVth Additional District

Judge (Fast Track), Dhar, in C.A. No. 71-A of 2001 which in turn arises out of Civil Suit No. 26-A of 1996, decided by Civil Judge, Class I,

Badnawar, dated 18-9-1996.

2. Heard Shri S.G. Gokhle, learned Counsel for the appellant on the question of admission.

3. Having heard learned Counsel for the appellant and having perused record of the case, I find no substance in the appeal. In other words, the

appeal does not involve any substantial question of law within the meaning of Section 100 of CPC and hence, the appeal must merit dismissal in

limine.

4. Firstly it is concurrent dismissal of plaintiff's suit and all finding of fact recorded by two Courts become finding of fact and are binding on this

Second Appellate Court. Secondly, and even otherwise, the suit for declaration of title in relation to suit land can not be decreed unless there are

adequate documentary evidence filed by the plaintiff in support of his plea of ownership such as sale deed, partition deed, Will, Gift or any other

testamentary documents which creates an interest in Immovable property. In the event of any plea regarding acquisition by legal fiction recognised

under the Revenue Law, conferring ownership rights, the plaintiff must tender evidence which is in accord with the requirement of law. This also

require very strict proof else, ownership rights can not be conferred.

5. I have not been able to notice any such type of documentary evidence forthcoming from the custody of the plaintiff in seeking a declaration of

title in relation to suit land. Reliance on Khasra Entry which is not a substitute for document of title nor create a title in favour of person is of no

significance. But that apart, two Courts have held that even the Revenue Papers filed and relied on by the plaintiff do not indicate the name of

plaintiff but records the name of defendant No. 3 - Vainkat (since dead) and Jaswant Singh (since dead).

6. I, therefore, do not find any case to take any other view than the one taken by the two Courts below. It is viewed based on evidence and

capable of being taken for dismissal of suit. No interference is thus, called for in this second appeal in such concurrent finding of fact.

7. Appeal, thus, fails and is dismissed in limine.