

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR.

:::

JUDGMENT

Rangi Lal and others.
vs.
Prahlad Rai and another.

S.B.CIVIL SECOND APPEAL NO.247/1995
UNDER SECTION 100 CPC AGAINST THE
JUDGMENT AND DECREE DATED 23.8.1995
PASSED BY SHRI M.D. GOSWAMI,
ADDITIONAL DISTRICT JUDGE, NOHAR IN
APPEAL NO.30/1992.

DATE OF JUDGMENT :: 20.12.2005

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Mr. Sanjeev Sharma, for the appellants.

Mr. RK Purohit for Mr.R.Mehta, for the respondents.

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BY THE COURT:

Heard learned counsel for the parties.

The plaintiff filed a suit for possession and injunction on the basis of allegations that the suit property was belonging to plaintiff's grand father Maidutt @ Maidas and a patta was issued in their favour about 109

years ago in Samwat Year 1937. The defendant contested the suit by saying that the plaintiff is not the grandson of said Maidutt. The trial court decreed the suit of the plaintiff by judgment and decree dated 22.10.1992. The first appellate court while deciding the issue no.1 held that the plaintiff failed to prove that he is grandson of Maidutt. The first appellate court for this considered patta Exhibit-A/1 and patta Exhibit-A/4 issued by Municipal Board, gift deed Exhibit-A/5 and also considered the sale deed Exhibit-A/3 which was executed in the year 1940 and it contained a fact that Maidutt died issueless.

In view of the above facts, the finding of fact recorded by the first appellate court is based on documentary evidence about the fact that the plaintiff failed to prove that he is grandson of Maidutt. A bare reading of the judgment of the trial court reveals that the trial court has not examined this aspect of the matter. In view of the above finding of fact, the first appellate court was right in dismissing the suit of the plaintiff.

In view of the above, I do not find any merit in the appeal. No substantial question of law is involved in this appeal, therefore, this appeal deserves to be dismissed, hence, dismissed.

(PRAKASH TATIA), J.

S.Phophaliya