

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 116 of 2005

BHIKAM CHAND
V/S
BUDHMAL & ORS

Mr. SANJEET PUROHIT for Mr. VIKAS BALIA, for the appellant

Date of Order : 28.4.2005

HON'BLE SHRI N P GUPTA, J.

ORDER

Heard learned counsel for the appellant at length.

The present suit has been filed by the plaintiff-appellant for injunction seeking to restrain the defendant from alienating the property in question. The defence of the defendant is, that there is document executed by plaintiff's uncle Moti Lal in favour of defendant Shanti Devi, which document bears the signature of appellant's father and, since by that document, rights of the plaintiff's father had come to an end. That document is said to be of year 1974 and, therefore, according to defendant, plaintiff has no right to maintain the present suit. It is not in dispute that present appellant has also instituted a suit for challenging that document, which is also pending.

In that view of the matter, I do not find any error in the findings recorded by learned courts below for dismissing the present suit. However, it is made clear that the findings recorded in this suit, shall not adversely effect the plaintiff's right in other suit filed for challenging the "Tamleeknama" and that suit will be decided on its own merits, and on the material available in that suit.

The appeal is, therefore, dismissed with the aforesaid observations.

(N P GUPTA), J.

/Srawat/