

S.B. CIVIL WRIT PETITION NO.2480/2005

Pritam Singh Vs. ADJ, Sri Karanpur and others.

Date : 28.4.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. GJ Gupta, for the petitioner.

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Heard learned counsel for the petitioner.

The trial court granted injunction order on 29.1.2003 directing both the parties to maintain status quo but thereafter, the plaintiff filed an application under Order 39 Rule 4 CPC which was allowed by the trial court and the plaintiff was permitted to raise construction as mentioned in the impugned order dated 29.7.2004.

It will be worthwhile to mention here that after the stay order which was passed on 29.1.2003, the plaintiff submitted that during this period, a wall has fallen down and, therefore, it need some reconstruction. The trial court considered the above aspect of the matter and thereafter, after obtaining the Commissioner's report, allowed the application under Order 39 Rule 4 CPC and granted said permission to the plaintiff. The petitioner's appeal against this order was dismissed on 4.4.2005.

Looking to the facts mentioned in the two orders of the

courts below, I do not find any illegality in them so as to interfere in the same under writ jurisdiction and it is settled law that because of raising any construction during the pendency of the suit, the party cannot claim any equity.

Accordingly, this writ petition, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya