

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

S.B. CIVIL WRIT PETITION NO.8235/2007.

Rajasthan Kisan Union
Vs.
Smt.Gayatri Devi Tiwari

Date of Order:- 20/12/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri M.C. Jain for the petitioner.

Heard learned counsel for the parties.

Learned counsel for petitioner has challenged the order dated 30/8/2007 whereby, his application for impleadment as party-defendant filed under Order 1 Rule 9 CPC has been dismissed.

Facts in brief are that plaintiff-respondent No.1 filed a suit for determination of rent in the competent court on 13/8/2002 against the petitioner Rajasthan Manch Rajya Sangh through Shri Gopinath Gupta. An application was moved on 19/2/2007 stating therein that Shri Gopinath Gupta has died on 1/6/2007. Plaintiff-respondent No.1 filed the application for substitution of the name of Shri Gopinath Gupta by Shri Harish Chand

Choudhary. Harish Chand Choudhary however put in appearance before the court and submitted an application under Order 1 Rule 9 CPC to the effect that there is no office of the Rajasthan Manch Rajya Sangh in the disputed premises where in fact office of Rajasthan Kisan Union is located since 1975. It was further stated in the application that plaintiff wrongly filed the suit against Rajasthan Manch Rajya Sangh therefore, the orders passed from time to time are not applicable to the Rajasthan Kisan Union, the petitioner. Hence, it was prayed that plaintiff's suit be dismissed as she has not come with clean hands.

The trial court rejected the said application holding that the applicant could not produce any evidence to show that Rajasthan Kisan Union was tenant of the landlord in the suit premises or that such premises was let out to Rajasthan Kisan Union. The trial court further held that in case Harish Chand Choudhary has nothing to do with the Rajasthan Kisan Union, hence he would fall in the category of a third party and even after decree

is passed by the court, he would be free to raise objection under Order 21 Rule 97 CPC.

In my considered view, if Rajasthan Kisan Union is not impleaded as party, it would not be bound by the decree of the trial court passed against Rajasthan Manch Rajya Sangh. Approach taken by the trial court cannot be in any manner said to be perverse or erroneous.

The impugned order thus does not suffer from any infirmity.

The writ petition is accordingly dismissed.

(MOHAMMAD RAFIQ), J.

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