

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAI PUR

ORDER
IN
S. B. Civil Writ Petition No. 1262/2008

Smt. Naina W/o Late Shri Nanda and Another
Versus
Additional District Judge No. 2, Jai pur
District, Jai pur and Others

Date of Order :::: 31. 07. 2008

Present
Hon'ble Mr. Justice Narendra Kumar Jain

Shri Vijay Singh Poonia, Counsel for
Petitioners
Shri Bihari Lal Agarwal, Counsel for
Respondents

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By the Court:-

Admit.

Heard learned counsel for the parties.

This writ petition, on behalf of the plaintiffs, is directed against the impugned order dated 24th January, 2008, passed by the trial court whereby the second application for temporary injunction filed on behalf of the plaintiffs, has been rejected.

The plaintiffs filed a suit for specific performance in the trial court on 1st August, 2006 in respect of agreement dated 14th February, 1992 and the application for temporary injunction was also filed on 16th August, 2006 and on that application consent order was passed on 23rd August, 2006 whereby

the order of status-quo in respect of sale of property was passed. The defendants were restrained from selling the disputed property. Thereafter the defendants filed another application for temporary injunction on 20th September, 2006, which was allowed and the plaintiffs were restrained vide order dated 27th October, 2006 from interfering with the possession of the defendants. Subsequently, the second application was filed by the plaintiffs on 14th March, 2007 with a prayer that the defendants be restrained from getting mutation entry opened in their name during the pendency of that second application for temporary injunction. The defendants also filed an application under Order 39 Rule 7 read with Section 151 CPC. The trial court, vide its order dated 24th January, 2008 dismissed the second application of the plaintiffs for temporary injunction and, so far as the application under Order 39 Rule 7 CPC filed on behalf of the defendant is concerned, the same was kept pending for final arguments on 18th February, 2008. Being aggrieved with the above order dated 24th January, 2008, the plaintiffs have preferred this writ petition.

The learned counsel for the petitioners contended that the plaintiffs are in possession

of the disputed land, therefore, the defendants should be restrained from getting the mutation entry opened in their name. He further contended that the learned trial court committed an illegality in deciding their second application for temporary injunction and in keeping the application of the defendants pending.

The learned counsel for the respondents contended that the defendants are in possession of the disputed land and the plaintiffs were restrained by the trial court itself vide order dated 27th October, 2006 from interfering with the possession of the defendants. He further contended that the mutation proceedings are only fiscal proceedings, therefore, even if mutation is opened in the name of the defendants, the plaintiffs are not going to suffer anything by it. He further contended that so far as the application under Order 39 Rule 7 read with Section 151 CPC is concerned, he does not press the said application and his statement may be recorded to that effect.

I have considered the submissions of the learned counsel for the parties and examined the impugned order dated 24th January, 2008 and, after considering the above referred facts, I find that there is no illegality, perversity or

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jurisdictional error in the impugned order so as to interfere with the same.

There is no merit in this writ petition and the same is accordingly dismissed with no order as to costs.

(Narendra Kumar Jain) J.

//Jaiman//