

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

ORDER

S. B. Civil Writ Petition No. 9259/2005
S. B. Civil Misc. Stay Application No. 7959/2005
(Pooran Chand & Another Versus Additional District
Judge & Another)

Date of Order :: 31st October, 2011

HON'BLE MR. JUSTICE MAHESH BHAGWATI

Mr. Ravi Kasliwal, counsel for the petitioners
Mr. Rinesh Gupta, counsel for the respondents

BY THE COURT:

Learned counsel for the respondents-applicants does not press the application filed under Article 226(3) of the Constitution, hence the same stands dismissed as not pressed.

Learned counsel for the petitioners submits that he did not file any sale deed of dated 22nd November, 1975. The relevant sale deed, which was required to be taken on record was dated 23rd June, 1975 executed by Raghunath Singh in favour of Dhanna Lal. There is, of course, one more sale deed dated 22nd November, 1975, but it is said to have been executed by Dhanna Lal in favour of the petitioner Pooran Chand. Hence, it is wrongly recorded that the sale deed, a mention of which has been made in the suit, is contrary to the sale deed, which was filed along-with the application under Order 7 Rule 14 (3) of CPC.

Learned counsel for the petitioners further canvassed that he has challenged the sale

deed dated 22nd November, 1975, which was executed by Dhanna Lal in favour of the petitioners, but so far as the sale deed dated 23rd June, 1975 is concerned, he has simply implored to take this document on record. All these aspects were not taken into consideration by the learned trial court while deciding this application under Order 7 Rule 14 (3) of CPC. Learned counsel further submits that in case the learned trial court is directed to consider all these aspects, he seeks permission to withdraw the writ petition with the liberty to file an application afresh under Order 7 Rule 14 (3) of CPC for its proper adjudication.

Permission is granted.

In view of above, the writ petition stands dismissed as withdrawn.

Learned trial court is directed to decide the application, if filed by the petitioners afresh under Order 7 Rule 14(3) CPC, within a period of 15 days from its filing in the court.

Consequent upon the dismissal of writ petition, the stay application, filed therewith, does not survive and that also stands dismissed.

(MAHESH BHAGWATI), J.

DK