

IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN BENCH AT JAIPUR

SB CIVIL WRIT PETITION NO. 1122/07.

FIRM RAM NARAYAN & BROTHERS & ANR. –
PETITIONERS.

VS

A. C. J. (JD) -J. M. NO. 1, & ORS. – RESPONDENTS.

DATE OF ORDER : 28TH SEPTEMBER, 2012.

PRESENT

HON' BLE MS. JUSTICE BELA M. TRIVEDI

Mr. J.R. Tanti a for the peti ti oners.
Mr. Anil Yadav for respondent No. 2.
None for respondent No. 3 to 5.

ORDER

BY THE COURT :

1. Heard the learned counsel Mr. J. R. Tanti a for the petitioners and the learned counsel Mr. Anil Yadav for the respondent No. 2-original plaintiff. Nobody appears for the other respondents, who are partners of the peti ti oner No. 1-firm.
2. Unfortunately this is second round of litigation so far as production of documents at the instance of respondent No. 2-plaintiff under Order VII Rule 14 CPC is concerned, inasmuch as earlier the application under Order VII Rule 14 CPC filed by the plaintiff was allowed against which the petitioners had filed SBCWP No. 540/06 before this court and

this court vide the order dated 23.8.06 had allowed the said petition. This court by the said order had directed the trial court to decide the application filed by the plaintiff under Order VII Rule 14 in accordance with law and in view of the observations made by the court in the said order. However, the trial court again passed the impugned order without complying with the directions given by this court.

3. While allowing the earlier petition being No. 540/06, this court had observed inter alia that the trial court had not taken into consideration the provisions contained in Sub-rule 1 and 2 of Order VII Rule 14 CPC, nor had given the reason for the relevancy of the documents for allowing the said application at a later stage when the evidence of the plaintiff was over. The court, therefore, had set aside the earlier order passed by the trial court.
4. As rightly submitted by the learned counsel Mr. J.R. Tantiya, for the petitioners, the trial court again without considering the relevancy of the

documents and without considering Sub-rule 1 and 2 of Rule 14 of Order VII allowed the said application of the plaintiff. The learned counsel for the respondent-plaintiff is unable to point out as to how the trial court had complied with the observations made by this court in the order passed in the writ petition. It is pertinent to note that though he impugned order passed by the trial court is discretionary in nature, the discretion is required to be exercised judiciously, and when this court had specifically made observations and given directions, the trial court was expected to give reasons for allowing the application under Order VII Rule 14. Therefore, it is a fit case to again remand the matter to the trial court for deciding the application afresh in the light of the observations made by this court in the earlier order dated 23.8.06 passed in SBCWP NO. 540/06.

5. In view of the above, the impugned order dated 7.11.06 passed by the trial court is set aside. The trial court is

directed to decide the application of the respondent-plaintiff filed under Order VII Rule 14 CPC afresh in the light of the order dated 23.8.06 passed by the High Court in SBCWP No. 540/06 within seven days from the receipt of this order. The petition stands allowed accordingly.

(BELA M. TRIVEDI) J.

MRG.

All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.

M.R. Gidwani
PS-cum-JW