

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

ORDER

S.B. Civil Writ Petition No.18423/2012

Smt. Durga Kumari & Anr.

Versus

Additional Civil Judge (Junior Division) & Anr.

Date of Order :: 29<sup>th</sup> November, 2013

HON'BLE MR. JUSTICE VEERENDR SINGH SIRADHANA

Mr.Nikhil Simlote, for the petitioners/defendants.

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BY THE COURT:

The petitioners/defendants, in the instant writ application, have assailed the order dated 1<sup>st</sup> of March, 2011 passed by the learned Trial Court dismissing the application of the petitioners/defendants under Order 1 Rule 10 of the Civil Procedure Code (hereinafter referred to as 'the CPC', for short) for impleading the Jaipur Development Authority as a party defendant to the suit.

2. Briefly stated the material facts and particulars essential for adjudication of the controversy are that the plaintiff/respondent filed a civil suit for permanent and mandatory injunction along with an application for temporary injunction against the petitioners/defendants with a prayer to restrain them from interfering in possession of the plot, use of the plot in dispute and further, not to interfere in raising of the construction on the plot. The plaintiff/respondent also prayed for mandatory injunction for removal of the obstruction on the Northern side of the disputed plot on the 30 feet wide road. The petitioners/defendants in their written statement denied parting of possession of the land to the Jaipur Development Authority and the

land in dispute was also not sold to Railway-Mens Housing Cooperative Society Ltd. (hereinafter referred to as 'the Society', for short) and they were absolute owners of the land in dispute. However, the Society illegally submitted a plan to the Jaipur Development Authority including the land of the petitioners/defendants. The application filed under Order 1 Rule 10 CPC was responded by a written reply by the respondent/plaintiff referring to the pleaded facts in the written statement of the petitioners/defendants with an additional plea to the effect that no relief was sought for against the Jaipur Development Authority by the respondent-plaintiff and the petitioners/defendants did not deny the fact that the details of plot as described under paragraph number 9, 10 and 11 of the written statement were shown to be of 'Anand Vihar Scheme'.

3. I have heard the learned counsel for the petitioners/ defendants and carefully considered the impugned order dated 1<sup>st</sup> of March, 2011.

4. A bare perusal of the impugned order would reveal that issue No.3 has been framed on 22<sup>nd</sup> of October, 2009 to the effect as to *whether Jaipur Development Authority is a necessary and proper party in the suit or not* and this fact is to be proved by leading evidence. Further, in a suit for permanent injunction, the issue relating to ownership is not for adjudication. Moreover, the petitioners/defendants have been left at liberty to bring on record the relevant documentary evidence, which can be obtained from the Jaipur Development Authority.

5. For the reasons aforesaid and keeping in view the material available on record as well as in the light of the fact that the impleadment of Jaipur Development Authority, as a necessary and proper party would be subject to the decision of issue number 3,

already framed by the learned Trial Court, I do not find any error or illegality in the impugned order dated 1<sup>st</sup> of March, 2011 calling for interference under writ jurisdiction of this Court.

6. In the result, the writ application deserves to be dismissed. Ordered accordingly.

7. In view of the final adjudication of the writ application, the stay application stands closed.

(VEERENDR SINGH SIRADHANA), J.

Sunil/ P.A.

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

(Sunil Solanki)  
P.A.



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