

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

S.B. Civil Misc. Appeal No.4779/2015

Ashish Bansal-Appellant

Versus

Kishan Lal & Ors.-Respondents

Date of Judgment-:::18th December, 2015

Hon'ble Ms. Justice Bela M. Trivedi

Mr. Shiv Charan Gupta, for appellant.

JUDGMENT

By the Court:-

1. The present appeal has been filed under Order XLIII Rule 1 (r) CPC against the order dated 06.11.2015 passed by the Additional District Judge No.6, Jaipur Metropolitan, Jaipur (hereinafter referred to as "the trial court") in T.I. Application No.86/2015, whereby the trial court has refused to grant ad-interim injunction as prayed for by the appellant-plaintiff, pending the temporary injunction application.

2. It is sought to be submitted by the learned counsel Mr. Shiv Charan Gupta for the appellant that the observations made by the trial court with regard to the right of the appellant in the suit properties are absolutely illegal in view of the settled legal position. According to him, the respondents are likely to dispose of the suit properties, and they are not injuncted, it would result into the multiplicity of the proceedings. He has relied upon the decision of the Supreme Court in case of Kirpal Kaur vs. Jitender Pal Singh & Ors., (2015) 9 SCC 356, in support of his submissions.

3. Having regard to the submissions made by the learned counsel for the appellant and to the impugned order passed by the trial court, it appears that the appellant-plaintiff has filed the suit seeking partition of the properties in question and has also filed the application seeking temporary injunction, pending the suit. It further appears that the appellant had also prayed for ad-interim injunction pending the temporary injunction application which has been dismissed by the trial court. It further appears that the respondents-defendants have not filed any reply to the temporary injunction application nor written statement to the suit, and the temporary injunction application is pending for disposal.

4. Under the circumstances, the Court is not inclined to interfere with the impugned order at this juncture. However, without entering into the merits of the case, it is directed that the trial court shall decide the temporary injunction application as expeditiously as possible after granting the respondents reasonable opportunity, on merits and in accordance with law, without being influenced by the observations made in the impugned order. With these observations, the appeal is dismissed. By this order, the stay application also stands dismissed.

(Bela M. Trivedi) J.

R.Vaishnav
27.

"All corrections made in the judgment/order have been incorporated in the judgment/order being emailed." Ramesh Vaishnav Personal Assistant