

Rajasthan High Court - Jodhpur

Hari Singh vs Girdawari & Ors on 14 January, 2009

SBCWP No.210/2009

Hari Singh Vs. Girdawari & Ors.

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DATE OF ORDER : - 14.1.2009

HON'BLE MR. PRAKASH TATIA, J.

Mr.VK Bhadu,for the petitioner.

<><><> Heard learned counsel for the petitioner. The petitioner's grievance is that the person-purchaser of the property in dispute during the pendency of the first appeal before the Revenue Appellate Authority, Hanumangarh has been impleaded as party by the appellate court vide order dated 18th June, 2008 by exercising power under Order 41 Rule 20 CPC.

According to learned counsel for the petitioner, only person who was party before the trial court and has not been made party to the appeal then only that person can be added as party respondent in the appeal under Order 41 Rule 20 CPC.

It is true that Order 41 Rule 20 CPC has its own limited scope for adding party, but at the same time, the person, who is claiming himself to be interested in the decision of the suit by virtue of the devolution of the SBCWP No.210/2009 Hari Singh Vs. Girdawari & Ors.

interest in the property during the pendency of the suit or appeal can be added as party by exercising powers under Order 22 Rule 10 CPC and also under Order 1 Rule 10 CPC. Therefore, mere wrong mentioning of provision of law in the application by the applicant or where the court has jurisdiction under other provisions of law and has passed the order under different provision of law then that itself is not any illegality.

In the facts of the case when the applicant purchased the property during the pendency of the first appeal and he has been impleaded as party by the appellate court as respondent, this Court is not inclined to exercise the jurisdiction under Article 227 of the Constitution of India to interfere in the said order, which has not been passed without jurisdiction of the court as the court had jurisdiction though under different provision of law.

Hence, I do not find any merit in this writ petition and the same is hereby dismissed.

(PRAKASH TATIA), J.

c.p.goyal/-