

SUPREME COURT OF INDIA

Ram Daan

Vs.

Urban Improvement Trust

(Jasti Chelameswar, J. Arjun Kr. Sikri)

01.08.2014

JUDGEMENT

Jasti Chelameswar, J.

(1.) Leave granted.

(2.) This appeal arises out of a judgment dated 23 January, 2012 of the High Court of Rajasthan at Jodhpur in an appeal Under Section 100 of the Code of Civil Procedure, 1908 (for short "the Code of Civil Procedure"). By the impugned judgment, the appeal was dismissed. The Appellant herein filed an Civil Suit No. 71 of 1976 on the file of the Additional Munsif and Judicial Magistrate, First Class, No. 1 Bikaner seeking a decree of permanent injunction restraining the Respondent herein from dispossessing the Appellant of a plot of land admeasuring 4914 sq. yards and further not to demolish the construction existing over the said property. The Appellant pleaded uninterrupted possession of the suit scheduled property from the year 1942. From the averments of the plaint, it appears that the Appellant encroached on the said property in the year 1942.

(3.) THE Respondent herein disputed the claim of uninterrupted possession from the year 1942 and stated in his written statement as follows: In the year 1965 to remove the illegal possession of the Plaintiff in notice was issue to him and upon receiving no response, the boundary wall of the suit property was dismantle. However, again he illegally occupied the said property. It is further stated in the written statement: ...improvement trust got removed the possession of the Plaintiff in 1965. Therefore, the Plaintiff again repossessed the same and action is being contemplated to remove him from the suit property. However, issuing these period a new policy was amounted by the state Govt. according to which a policy of regularization unauthorized possession or allotment of alternative plot in lieu of the illegally occupied land was announced. As per the said policy to Plaintiff was offered the policy of regularization of his 1808 sq. yrd. land at rate Rs. 3/ - per sq. yrd and the same was to be offered in lieu of his illegal possession and constructional house over the land the Plaintiff was issued a notice to this effect on two occasion with direction that he should deposit the

amount. However, neither the Plaintiff intended to deposit the amount nor he wished to remove his possession and he wants to enjoy the Govt. land free of cost. ;

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