

RAJASTHAN HIGH COURT

Rajasthan Financial Corporation

Vs.

Pukhraj Jain

Civil Revn. Petn. No. 773 of 2000

(V.S. Kokje, J.)

24.10.2000

ORDER

V.S. Kokje, J.

1. Rajasthan Financial Corporation had filed a civil suit in the Court of Additional District Judge, Beawar, District Ajmer. After trial of the suit was complete and the case was reserved for judgment, an application under Order 13, Rule 2, Civil Procedure Code was moved by the plaintiff. This application was rejected by the trial Court holding that after the arguments were heard and case was closed for judgment, the Court was not compelled to accept any application from the parties. Aggrieved by that order, the Rajasthan Financial Corporation has filed this revision petition.

2. The only point to be decided in the case is whether a party could move an application after the final arguments in the case were heard and the case was reserved for judgment.

3. In *Arjun Singh v. Mohindra Kumar*,¹ in para 19, the Supreme Court has observed as under (at Page 1004) :

"In the present context when once the hearing starts, the Code contemplates only two stages in the trial of the suit : (1) where the hearing is adjourned or (2) where the hearing is completed. Where the hearing is completed the parties have no further rights or privileges in the matter and it is only for the convenience of the Court that Order 20, Rule 1 permits judgment to be delivered after an interval after the hearing is completed. "There is thus no hiatus between the two stages of reservation of judgment and pronouncing the judgment so as to make it necessary for the Court to afford to the party the

remedy of getting orders passed on the lines of Order 9, Rule 7."

4. In view of this clear pronouncement, which is binding on this Court, no further discussion is in fact necessary but as my attention has been drawn to several decisions some of which try to distinguish the aforesaid decision in Arjun Singh's case (supra). I consider it my duty to refer to and discuss the citations cited at the Bar.

5. A single Bench decision of this Court in *Kishan Singh v. Birbal Ram*, reported in ² has been cited. This ruling simply does not apply to the facts of the present case as in that case the application appears to have been made at the stage of arguments and not after the case was closed for judgment, though the Court has observed that the counsel for the defendant had argued that the suit was fixed for final disposal. The point as to whether the application could be made after the closure of the case for judgment or not, had not been raised in that case and what the Court has decided, relying on the decision of the Supreme Court reported in *Billa Jagan Mohan Reddy v. Billa Sanjeeva Reddy* ³ is that if the document is necessary for disposal of the suit, it should be accepted even at the stage of arguments. The Supreme Court case relied upon in the aforesaid decision is clearly distinguishable on facts as the documents in that case were sought to be produced at the stage of arguments and not after the case was closed for judgment.

6. Another decision of the Supreme Court in *Altaf Khan v. Mohd. Amin Khan*,⁴ was also cited. This also is not a case in which the documents were sought to be produced between the closure of the case for judgment and pronouncement of judgment. The documents were sought to be produced at the belated stage in this case. This case is, therefore, clearly distinguishable.

7. A single Bench decision of this Court in *RSEB v. Lakhranj Oil* ⁵ was also cited. This is also a case in which the documents were sought to be produced before the arguments were finally heard and the case was closed for judgment. This case would also therefore be of no use for the purpose of deciding the present revision petition.

8. The next case relied upon was a single Bench decision of M. P. High Court in *Badri Prasad v. S. Kripal Singh* ⁶ In this case, an application under Order 6, Rule 17, Civil Procedure Code was filed after the case was posted for delivery of judgment. The learned single Judge made a distinction between an application under Order 9, Rule 7,

Civil Procedure Code and an application under Order 6, Rule 17, Civil Procedure Code and held that Arjun Singh's case (supra) would apply to the applications under Order 9, Rule 7, Civil Procedure Code only and would have no application to application under Order 6, Rule 17, Civil Procedure Code. Actually, the learned single Judge has failed to notice the clear pronouncement of the Supreme Court on the point contained in the words reproduced at the beginning of this Order. I respectfully disagree with the view taken by the learned single Judge of the M. P. High Court as the question is not as to under which provision the application is made but the question is as to whether after the arguments are heard and the case is closed for judgment, any application under any provision could be moved till the judgment is pronounced. Supreme Court has clearly held that, there is no hiatus between the two stages of reservation of judgment and pronouncement of judgment. If there is no stage in between two and it is only for the convenience of the Court that pronouncement of the judgment may be deferred, it is clear that no application could be moved after the arguments were heard and the case was closed for judgment. Moreover, the distinction sought to be made on the basis of absence of the word 'stage' in Order 9, Rule 7, Civil Procedure Code is also not real. Since the Supreme Court has categorically decided that there is no hiatus between the two stages of reservation of judgment and pronouncement of judgment it cannot be said that there can be any stage in between the closure of the case for judgment and the pronouncement of the judgment itself.

9. Learned single Judge of this Court in *Sanjay Saxena v. Smt. Rohini Kutty*,⁷ has held that though an application under Order 9, Rule 7, Civil Procedure Code could not be entertained after the arguments were heard and the case was closed for judgment, application under Section 151, Civil Procedure Code could be entertained. This decision does not refer to the decision of the Supreme Court in Arjun Singh's case (supra). It runs directly contrary to the decision of the Supreme Court in Arjun Singh's case (supra). For that reason, it is not a good law.

10. In *Smt. Karti v. Rattia*,⁸ a learned single Judge of in Punjab and Haryana High Court has distinguished the decision of the Supreme Court in the case of Arjun Singh (supra). In the facts of that case, an application under Order 13, Rule 2, Civil Procedure Code moved after the arguments were heard and before the judgment was pronounced was accepted by the trial Court and the revision petition was filed against the order of such acceptance. The case is clearly distinguishable because by accepting the application the Court itself had reversed the process before pronouncement of

judgment. Arjun Singh's case did not postulate such a situation. The trial Court has jurisdiction not to pronounce the judgment on a particular date and fix it again for rehearing or for any other purpose if it finds itself unable to pronounce the judgment for want of documents or any other reason. The decision in Arjun Singh's case does not of course mean that the trial Court is powerless after it closed the case for judgment and has to pronounce the judgment in all circumstances. But the decision of the Supreme Court in Arjun Singh's case (supra) clearly lays down that for the parties, there is no hiatus between closure of the case for judgment and pronouncement of the judgment and therefore, the parties cannot move any application as there is no stage in between closure of the case for pronouncement of the judgment and actual pronouncement of the judgment.

11. A single Bench decision of the Bombay High Court in *Celestina Rosario v. Mrs. Hariquinha F.D. Rosario*⁹ was also cited. This case takes a view contrary to Arjun Singh's case (supra) without even referring to that decision.

12. As a result of the aforesaid discussion, I see no reason as to why Arjun Singh's case (supra) cannot be made applicable to the facts of the present case. I find no force in this revision petition. The revision petition is dismissed. There shall be no order as to costs.

Petition dismissed.

Cases Referred.

1. AIR 1964 SC 993
2. 1995 (2) DNJ 195
3. 1994 (4) SCC 659
4. 1995 Supp (4) SCC 725
5. (S. B. Civil Revision Petition No. 23/96 decided on 3-10-1996
6. AIR 1981 Mad Pra 228
7. 1999 DNJ (Raj) 322
8. AIR 1981 Pun and Har 185
9. (1999 (2) CCC 599: (1997 AIHC 150) (Bom)