

RAJASTHAN HIGH COURT

Nathmal

Vs.

Urban Improvement Trust

S. B. Civil Writ Petn. No. 836 of 2008

(Prakash Tatia, J)

12.01.2009

ORDER

Prakash Tatia, J.

1. Heard learned counsel for the parties.
2. This petition has been preferred against the order of the trial Court by which the trial Court refused to admit, rather say, ordered to take out of the record the certified copy of the sale deed Ex. 4 as well as the order passed by the UIT, Bikaner Ex. 7.
3. According to learned counsel for the petitioner the trial Court committed error of law by ordering deletion of exhibit marked as Exs. 4 and 7. It is submitted that original sale deed Ex. 4 is lying in another suit, which is pending in the same Court having No. 14/1998 and, therefore, he could have exhibited the Photostat copy of the original sale deed. It is submitted that the copy of the order passed by the UIT, Bikaner (Ex. 7) was filed during evidence of the plaintiff and he produced the certified copy of the order passed by the UIT, Bikaner and that could have been done because the copy has already been filed by the plaintiff.
4. Learned counsel for the respondent submitted that only original documents could have been exhibited, but the original document, which is admittedly in existence has not been produced, therefore, the trial Court was right in ordering removal of the Exs. 4 and 7.
5. I have considered the submissions of learned counsel for the parties and perused the record.
6. So far as Ex. 4 is concerned, i.e., only a certified copy of the sale deed and that is

not a public document and, therefore, the only remedy available with the plaintiff was to summon the file of the civil original suit in which the original sale deed was filed. Though the suit in which the original sale deed was filed is pending in the same Court, but the plaintiff may request the trial Court for summoning of the file of said suit but same cannot be looked into nor that file's document can be used without leave and permission of the Court in any other case and document of that file could have been proved by party by summoning the said document and, therefore, the plaintiff will be free to move appropriate application, upon which the Court may pass appropriate order as the certified copy of the sale deed already has been come on record in that suit.

7. So far as order of the UIT, Bikaner (Ex. 7) is concerned, it is certified copy and the same could have been taken into evidence because of the reason that the uncertified copy of the said order has already been filed by the plaintiff and this fact is brought to the notice of the trial Court by the plaintiff which has not been found wrong by the trial Court.

8. In view of the above, the writ petition of the petitioner is allowed and it is held that the Ex. 7 was rightly marked as exhibit. However, for the Ex. 4, the plaintiff may move appropriate application before the trial Court for summoning of the aforesaid civil suit to prove the sale deed, upon which he may be permitted to lead evidence about the sale deed.

Petition allowed.