

HIGH COURT OF JUDICATURE FOR RAJASTHAN
JODHPUR

S.B. Civil First Appeal No. 43/1997

Banarsi Das

----Appellant

Versus

Kamal Kumar And Ors

----Respondent

For Appellant(s) : Mr. Vishal Singhal

For Respondent(s) : Mr. Trilok Joshi

HON'BLE MS. JUSTICE REKHA BORANA

Order

04/10/2023

1. An application (Inward No.01/2022) under Section 151 of the Code of Civil Procedure has been filed on behalf of respondent No.2 for taking certain documents on record.

A reply to the said application has been filed on behalf of the appellants raising objection qua the same.

2. This Court is not inclined to entertain the application for the following reasons:-

- i. Where a specific provision for taking documents on record in civil proceedings by the appellate Court is provided under the Statute, an application under Section 151, CPC for the said purpose cannot be entertained.
- ii. The inherent powers of the Court under Section 151, CPC cannot be exercised qua an application for taking certain documents on record.
- iii. The documents which have been prayed to be taken on record comprise of a power of attorney and certain release deeds issued in favour of respondent no.2 Shyam Sunder

and in the reply as filed by the appellants, the factum of execution of the said release deeds itself has been denied by the alleged executants. The documents which have been denied by the executants themselves, cannot be taken on record unless and until proved in terms of law.

In view of the same, the application under Section 151, CPC is dismissed.

3. An application (Inward No.01/2023) under Section 151, CPC has also been filed on behalf of appellant with a submission that respondent No.4 Smt. Lajwanti had expired on 14.10.2022 and as her legal representatives are already on record, an endorsement be made in the cause title regarding her death.

4. In view of the submission made, the application is allowed. An endorsement in the cause title be made regarding the death of respondent No.4, Smt. Lajwanti.

5. Amended cause title be filed within a period of one week.

6. List the matter for hearing in the month of November 2023.

(REKHA BORANA),J