

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 16412/2022

1. Ansuiya W/o Indraraj, Aged About 42 Years, B/c Suthar, R/o Chak 8, Cd 4, Tehsil Pungal, District Bikaner, Rajasthan.
2. Ram Swarup S/o Kashiram, Aged About 45 Years, B/c Suthar, R/o Karm Nagri, Panchdira Ka Tibba, Bhakalvasi Road, Miji Ki Dhani, Abohar, District Firozpur (Punjab).

-----Petitioners

Versus

Manji S/o Jetharam, B/c Suthar, R/o Binjasar, Tehsil Chauthan, Barmer, Currently Residing At Abad Sutharo Ka Baas, Gehu Road, Barmer (Rajasthan).

-----Respondent

For Petitioner(s) : Mr. Dharamveer Choudhary for Mr. Amit Gaur

For Respondent(s) :

HON'BLE MR. JUSTICE VIJAY BISHNOI

Judgment / Order

22/11/2022

This writ petition is filed by the petitioners being aggrieved with the order dated 08.03.2022 passed by the Additional District and Session Judge No.2 Bikaner (for short 'the trial court') whereby, the opportunity of the petitioners to cross examine the witnesses of plaintiff i.e. PW-1 and PW-2 has been closed.

It is noticed that the suit for declaration and permanent injunction filed by the respondent is pending before the trial court since 2011. The trial court has granted several opportunities to the defendant to cross examine the witnesses of the plaintiff and ultimately one last opportunity granted to the petitioners to cross examine witnesses of plaintiff on a cost of Rs.1000/-, however,

when the petitioners have failed to cross examine witnesses of plaintiff, the trial court has passed the impugned order.

Having heard learned counsel for the petitioners and after perusing the material available on record, I do not find any illegality in the impugned order passed by the trial court.

However, at this stage learned counsel for the petitioner has submitted that in the interest of justice, one last opportunity may be granted to the petitioners to cross examine the witnesses produced by the plaintiff and for that, the petitioners are ready to pay a cost of Rs.25,000/- to the plaintiff.

Taking into consideration the above submissions made by learned counsel for the petitioners and in the interest of justice, I deem it appropriate to grant one last opportunity to the petitioners to cross examine the witnesses of the plaintiff-respondent, provided they shall pay a cost of Rs.25,000/- to the plaintiff-respondent.

Issue notice, returnable on 19.12.2022

It is informed that the next date in the trial court is fixed as 23.11.2022. Hence, the trial court is directed to allow the petitioners to cross examine the witnesses of the plaintiff-respondent on that date subject to the condition that the petitioners shall pay a cost of Rs.25,000/- to the plaintiff-respondent or his counsel.

It is made clear that if the petitioners fail to pay the cost of Rs.25,000/- to the plaintiff-respondent or his counsel or he fails to cross examine the witnesses of plaintiff-respondent on the stipulated date, no further opportunity will be granted to the petitioners.

It is also made clear that if the plaintiff-respondent refuses to accept the cost, further proceedings in Suit No.59/2011 pending in the court of Additional District Judge No.2 Bikaner shall remain stayed till the next date.

(VIJAY BISHNOI),J

Surabhii/79-

RAJASTHAN HIGH COURT



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