

Court No. - 4

Case :- WRIT - C No. - 25809 of 2011

Petitioner :- Shri Shyam Mandal Trust And Others

Respondent :- Additional Civil Judge (S.D.) Ct.No.1 And Another

Petitioner Counsel :- Ashish Kumar Srivastav

Respondent Counsel :- Aklank Jain

Hon'ble Rajes Kumar,J.

Heard learned counsel for the petitioners and Sri Aklank Jain, learned counsel appearing on behalf of respondent no.2.

The petitioners are defendants in the suit. The plaintiff filed a suit for declaration and permanent injunction in respect of House No. D52/7, situated in Mohalla Laxmi Kund, Varanasi. In the said suit, an application has been moved by the plaintiff for the appointment of Advocate Commissioner to ascertain the Chauhaddi of the house. The application has been allowed vide order dated 21.4.2011 against which learned counsel for the petitioners states that revision has been filed which has been dismissed.

Learned counsel for the petitioners submitted that under Order 7 Rule 3 of C.P.C., the plaintiff has to give the description of the property in the plaint for the purpose of its identity, which the plaintiff failed to do so and, therefore, the plaint itself is not maintainable and the impugned order is not justified.

I do not find any substance in the argument of learned counsel for the petitioners. The house number is duly given in the plaint. To ascertain the Chauhaddi, Advocate Commissioner has been appointed.

I do not find any illegality in the order. The writ petition fails and is dismissed.

Order Date :- 4.5.2011

OP