



CGHC010181332022

NAFR

INDRAJEET
SAHU

Digitally signed
by INDRAJEET
SAHU
Date: 2026.10.09
10:58:02 +0530

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 314 of 2022

1 - Khikram S/o Ghasiya Ram Aged About 43 Years R/o Village Madhaibhatha, Police Station Sarsiva, Tahsil Bilaigarh, District Balodabazar-Bhatapara (C.G.)

... Petitioner(s)

Versus

1 - Vijay Kumar S/o Shaniram Aged About 39 Years
2 - Duj Ram Sahu S/o Shaniram Aged About 33 Years
3 - Shaniram S/o Lalaram Aged About 73 Years
4 - Smt. Mangli Bai W/o Vijay Kumar Aged About 33 Years
 All are by Caste Teli, R/o Village Madhaibhatha, Police Station Sarsiva, District Balodabazar-Bhatapara (C.G.)

... Respondent(s)

(Cause-title taken from Case Information System)

For Petitioner	:	Shri Shikhar Sharma, Advocate.
For Respondents 1,2 and 4	:	Shri Anil Kumar Sahu, Advocate.

Hon'ble Shri Justice Ravindra Kumar Agrawal, J

Order on Board

08.10.2026

- The present writ petition under Article 227 of the Constitution of India has been filed by the petitioner against the impugned order dated 31.08.2021 passed by Civil Judge, Class-II, Bhatgaon, District Baloda Bazar, in Civil Suit No.3-B/2016, whereby the plaint filed by the plaintiff has been rejected while invoking the jurisdiction under Order 7 Rule 11 of CPC.
- Learned counsel for the petitioner would submit that the petitioner was the plaintiff before the trial court who was prosecuting a suit for

compensation for malicious prosecution against the defendants. During pendency of suit, the defendants filed an application under Order 14 Rule 2 of CPC raising objection that the suit is barred by limitation and it may be decided after framing preliminary issue with respect to limitation to file the suit. The trial court after considering the objection raised by the defendants, held that the judgment of acquittal against the plaintiff was passed on 18.09.2013 whereas he filed the suit for compensation for malicious prosecution on 12.07.2016 which is barred by limitation and accordingly the plaint was rejected invoking the jurisdiction under Order 7 Rule 11 (d) of CPC. He would further submit that when the plaintiff was acquitted from the trial of criminal case, he filed the suit for compensation in which written statement was filed and issues were already framed, therefore, the trial court ought to have decided the issues after recording evidence of the parties and should not have dealt the issue of limitation as a preliminary issue. Therefore, the impugned order may be set aside and the matter may be remitted back to decide all the issues on merits in accordance with law.

3. On the other hand, learned counsel appearing for respondents No.1, 2 & 4 opposes the submissions made by the counsel for the petitioner and have submitted that rejection of plaint filed by the plaintiff amounts to a decree as provided under Section 2(2) of CPC and against the rejection of plaint, which amount to a decree, a regular First Appeal is maintainable under Section 96 of CPC and therefore the present writ petition under Article 227 of the Constitution of India is not maintainable.
4. I have heard the counsel for the parties and perused the documents annexed with the petition.

5. Undisputedly the plaint filed by the plaintiff/petitioner has been rejected by the trial court while invoking the provisions under Order 7 Rule 11(d) of CPC by holding that it is barred by limitation. Section 2(2) of CPC clearly provides that rejection of plaint deemed to be a decree. It is necessary here to note the definition of Section 2(2) of CPC which reads as under :

“(2) decree” means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within [* * *] section 144, but shall not include-

(a) any adjudication from which an appeal lies as an appeal from an order, or

(b) any order of dismissal for default.

Explanation .-A decree is preliminary when further proceedings have to be taken before the suit can be completely disposed of. It is final when such adjudication completely disposes of the suit. It may be partly preliminary and partly final;”

6. When rejection of a plaint amount to a decree, as per Section 2(2) of CPC, a regular First Appeal would lie as provided under Section 96 of CPC which provides that an appeal shall lie from every decree passed by any court exercising original jurisdiction to the court authorized to hear appeal from the decision of such court, and therefore, the impugned order have the effect of a decree against which a regular First Appeal under Section 96 of CPC is maintainable. Thus, this court is not inclined to entertain its jurisdiction under Article 227 of the Constitution of India to examine the legality and validity of the order impugned.

7. The writ petition accordingly fails and is hereby dismissed.

Sd/-
(Ravindra Kumar Agrawal)
Judge