

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Civil Revision No. 78 of 2015**

Shri Amarjeet Singh Chhabra S/o Pyarelal Chhabra Aged About 52 Years R/o Guru Govind Nagar, New Bus Stant Raipur, P.S. And Post Raipur, Civil And Revenue District Raipur Chhattisgarh

---- Applicant**Versus**

1. Smt. Maya Devi Valde W/o Shri Rajkumar Valda Aged About 56 Years R/o Panchsheel Nagar East B.M.Y. Charoda, P.S. And Post Charoda Civil And Revenue District Durg Chhattisgarh
2. Smt. Malti Devi W/o Shri Harimohan Sharma Aged About 65 Years R/o Bus Stand B.M.Y. Charoda, P.S. And Post Charoda Civil And Revenue District Durg Chhattisgarh
3. Shri M. Satyanarayan S/o M. Suryanarayan Aged About 65 Years R/o Zone-2, B.M.Y. Charoda, P.S. And Post Charoda Civil And Revenue District Durg Chhattisgarh
4. Nayab Tahsildar Bhilai-3, Tahsil Office Bhilai-3, District Durg Chhattisgarh
5. Revenue Inspector, Bhilai-3, Office Of Revenue Inspector, Bhilai-3 District Durg Chhattisgarh
6. Patwari, Patwari Halka No. 2, Office Of Patwari, Indira Nagar Charoda, Tahsil Patan, District Durg Chhattisgarh
7. State Of Chhattisgarh Through Collector, Durg District Durg Chhattisgarh

---- Respondents

For Applicant	:	Shri Manoj Paranjpe, Advocate.
For Respondents No.1 to 3	:	Shri A.D. Kuldeep, Advocate.
For Respondents No.4 to 7/ State:	:	Shri S.C. Khakhariya, Deputy Advocate General.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order on Board****22/12/2015**

(1) Heard on admission.

(2) Learned counsel for the Applicant filed the instant civil revision against order dated 2.5.2015 in Civil Suit No.1-A of 2015 (Maya Devi and 2 Others vs. Amarjeet Singh Chhabra and 4 Others). The Court below dismissed I.A. No. 3 of 2015 filed by the Applicant/ Defendant No.1

claiming that the relief as claimed by the Plaintiffs is not maintainable before the Civil Court.

(3) Against the aforesaid order, the Applicant has filed the instant revision and submitted that the order is not as per the settled provisions of law. The Court has not appreciated the facts and provisions of Order VII Rule 11 of the Code of Civil Procedure (for short 'the CPC') read with Section 257 of the Chhattisgarh Land Revenue Code (for short 'the Code'). The order passed by the learned trial Court is illegal, erroneous and contrary to law. Hence, the same may be set aside and the suit filed by the Plaintiffs may be dismissed by allowing I.A. No. 3 of 2015.

(4) Learned counsel for the Applicant submits that the reliefs claimed as mentioned in the suit filed by the Plaintiffs No.1 to 4 are not under the jurisdiction of civil Court. Hence, dismissal of the application filed under Order VII Rule 11 of the CPC read with Section 257 of the Code is not proper. Hence, Learned Counsel for the Applicant prays that the matter may be admitted for consideration and after hearing the instant civil revision, the impugned order may be set aside and the suit filed by the Plaintiffs may be dismissed.

(5) For the purposes of appreciation regarding submissions as advanced by Learned Counsel for the Applicant, the impugned order dated 2.5.2015, copy of the plaint and the application and the reply thereto are perused.

(6) The Court below vide order dated 2.5.2015 observed that in the plaint the Plaintiffs alongwith other reliefs also prayed for the relief regarding declaration of title and permanent injunction which is under the jurisdiction of the Civil Court. Hence, the Court below dismissed the

application and proceeded further.

(7) As per relevant provisions of Order VII Rule 11 of the CPC, the plaint as it is filed shall be rejected if the prayer and the pleadings are under the provisions as in Order VII Rule 11 of the CPC. The Applicant has failed to demonstrate whether the relief of declaration of title and permanent injunction is not within the exclusive jurisdiction of the Civil Court. In view of above, I do not see any illegality or impropriety as the entire plaint is not as such it could be rejected under the provisions of Order VII Rule 11 of the CPC.

(8) As the plaint filed before the Court below and the pleadings require larger adjudication for the sake of arguments, if any of the relief is not within the jurisdiction of civil Court, it does not mean that other pleadings in the plaint shall also be liable for rejection of the entire plaint.

(9) It is submitted on behalf of the Applicant that the Court below after filing of the written statement may formulate all issues on the basis of the plaint and written statement and those issues may be heard either as preliminary issue or otherwise as the law applicable for hearing those issues. It is also prayed that while hearing those issues appreciation as in the impugned order may not come on the way.

(10) In the opinion of this Court, as the matter is pending for trial and the pleadings which are exclusively triable by the Civil Court including the prayer made by the Applicant, even though some of the reliefs are not within the jurisdiction of the civil Court.

(11) Upon due consideration, the instant civil revision is disposed of without any appreciation on its merit. The trial Court is directed to frame all the relevant issues based on the pleadings of the Plaintiffs and

Defendants and after framing all the issues, they be heard either as a preliminary issue or otherwise as the case may be. The trial Court is further directed that while deciding the issues framed on the basis of the pleadings of both the parties the appreciation of the Court below vide order dated 2.5.2015 shall not come in the way.

(12) With the above observation, the revision is disposed of at the motion stage itself.

(13) No order as to costs.

Sd/-

(Chandra Bhushan Bajpai)

JUDGE