

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 811 of 2015

1. Vishnu Prasad Gupta S/o Late Banshi Lal Gupta, Aged About 55 Years R/o Behind Govt. Boys School, Guptapara, Ratanpur, Tahsil Kota, District Bilaspur, (Chhattisgarh).....(Defendant No.1)

---- Petitioner

Versus

1. Smt. Pooja Gupta W/o Narayan Gupta, Aged About 26 Years Sector-3, Qut. No. 754/ A/3, Balco Nagar, Tahsil & District Korba, (Chhattisgarh).....(Defendant No. 2)

2. Ashish Gupta, S/o Mahendra Gupta, Aged About 22 Years R/o Village Baloda, Tahsil Akaltara, District Janjgir Champa, (Chhattisgarh).....(Defendant No. 3)

3. Atul Gupta S/o Mahendra Gupta, Aged About 19 Years R/o Village Baloda, Tahsil Akaltara, District Janjgir Champa, (Chhattisgarh).....(Defendant No.4)

4. State Of Chhattisgarh, Through Collector, Bilaspur, District Bilaspur, (Chhattisgarh).....(Defendant No.5)

5. Smt. Manorama Bani, W/o Janakram Bani, Aged About 50 Years Through Its Power Of Attorney- Adarsh Kumar Gupta, Aged About 37 Years, (Advocate), S/o Janak Ram Bani, R/o Near Shiv Hanuman Temple, Tilak Nagar, Bilaspur, (Chhattisgarh).....(Plaintiff)

---- Respondents

For Petitioner.
For Respondent/State.

: Shri Hemant Gupta, Advocate.
: Shri Vinod Tekam, Panel Lawyer.

Order On Board

30/09/2015

Heard.

1. This petition under Article 227 of the Constitution of India has been filed assailing

legality and validity of order dated 20.08.2015 by which petitioner's application under order 7 Rule 11 read with Section 151 of the CPC has been rejected.

2. Learned counsel for the petitioner submits that in the suit for declaration and injunction, proper Court fee has not been paid as per the true and correct valuation of the property which includes a house also. It is also submitted that owner of the property has not been impleaded as necessary party.

3. As far as valuation part is concerned, the party has only claimed declaration and injunction and no recovery of possession of the house on the pleadings that the plaintiff is in possession. If the defendant seeks to dispute the valuation, he may raise such a defence in the written statement and trial Court may frame proper issue. It is not a suit for partition, it is a suit for declaration and injunction therefore, when other coparcener have already been impleaded as party, there is no, case of non-joinder of necessary party.

3. Subject to the aforesaid observation regarding framing of issue, there is no illegality or perversity in the impugned order. Therefore, this petition is dismissed.

Sd/-

Manindra Mohan Shrivastava

Judge