

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Civil Revision No. 104 of 2015**

Sanjay Sahu S/o Devprasad Sahu, Aged About 36 Years R/o Kotarliya Station, Tah. & Distt.- Raigarh, Chhattisgarh. ...(Defendant No.1)

---- Applicant**Versus**

1. Manoj Beriwal S/o Vishnudayal, Aged About 37 Years Occupation-Business
2. Vinod Beriwal S/o Subhash Beriwal, Aged About 29 Years Occupation-Business. Both are R/o Hatri Chowk, Raigarh, Tah. & Distt.- Raigarh, Chhattisgarh
3. Santosh Agrawal S/o Ganpatlal, Aged About 37 Years Occupation-Business, R/o Gandhi Ganj, Raigarh, Tah. & Distt.- Raigarh, Chhattisgarh
4. Kamal Agrawal S/o Late Mahesh Agrawal, Aged About 56 Years Occupation- Business, R/o Village- Mahpalli, Tah. & Distt.- Raigarh, Chhattisgarh
5. State Of Chhattisgarh, Through- Collector Raigarh, Chhattisgarh

---- Respondents

For Applicant	:	Shri Amit Sharma, Advocate.
For Respondent No.5/State	:	Shri Aditya Sharma, Panel Lawyer.

Order On Board**27/10/2015**

1. Heard on admission.
2. On behalf of the Applicant, it is submitted that the ground taken in his application under Order VII Rule 11 of the Code of Civil Procedure, 1908 (for short 'the CPC') was with regard to the fact that the suit is barred by limitation.
3. To examine the aforesaid requirement, Order VII Rule 11 of the CPC has to be appreciated with regard to the pleadings mentioned in the plaint. The Order VII Rule 11 of the CPC which relates to rejection of the plaint was examined by the Court below and held that the objections raised are the

subject matter of defence of Defendant No.1 as he can plead those facts in the written statement and on the basis of the pleadings of the parties issues may be framed and the same may be disposed of after recording of evidence of both the parties. It shows that the points raised in the application are still subject matter to be pleaded in the written statement and it shall be for the trial Court to frame the issues. According to the pleadings made by the parties, as per law, it is for the trial Court to dispose of those issues either as primary issues or otherwise, as the case may be.

4. Looking to the observation made by the trial Court in this behalf it goes to show that the points still can be pleaded in the written statement and the same may be disposed of after its appreciation either as primary issue or after affording opportunity to adduce the evidence in this behalf.

5. In view of the aforesaid discussion, the instant civil revision is liable to be dismissed as not maintainable. Consequently, the instant civil revision is dismissed as indicated above.

6. No order as to costs.

Sd/-
Chandra Bhushan Bajpai
Judge