

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 843 of 2015

1. Jeet Kunwar W/o Kanakram Gabel, Aged About 65 Years R/o Mission Chowk, Malkharoda, P.S. & Teh. Malkharoda, District Janjgir Champa, Chhattisgarh(Defendant No. 2)

---- **Petitioner**

Versus

1. Chamraram S/o Gopichand, Aged About 75 Years Caste Teli, R/o Village Kalmi, P.S. & Tahsil Malkharoda, District Janjgir Champa, Chhattisgarh.....(Plaintiff)
2. Mohan, S/o Jagatu, Aged About 65 Years Casste Teli, R/o Village Kalmi, P.S. & Teh Malkharoda, District Janjgir Champa Chhattisgarh(Devendant No. 1)
3. Chamruram S/o Gopichand, Aged About 70 Years Caste Teli, R/o Village Kalmi, P.S. & Teh. Malkharoda, District Janjgir Champa Chhattisgarh.....
(Devendant No. 3)
4. State Of Chhattisgarh, Through Collector Janjgir Champa Chhattisgarh..... (Defendant No. 4)

---- **Respondents**

For Petitioner.	: Shri Deepak Kumar Singh, Advocate.
For Respondents/State.	: Shri Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

12/10/2015

Heard on admission.

1. This petition is directed under Article 227 of the Constitution of India against the order dated 17.08.2015, by which petitioner's prayer for rejection of the plaint by moving an application under Order 7 Rule 11 of CPC, has been rejected.

2. Learned counsel for the petitioner submits that the house in dispute is constructed on the land which was purchased by the petitioner for a sum of Rs. 1,20,000/-, therefore, the plaintiff ought to have valued the suit on this amount secondly it is submitted that as the petitioner is claiming possession of the land mentioned in the sale deed which is sought to be avoided its value has to be taken as basis for payment of Court Fee.

3. Both the grounds have been rejected by the Trial Court. The trial Court has recorded the findings that as the plaintiff is co-parcener and he was not the party to the sale deed, for declaration he is not required to value the suit on the basis of the sale deed. The other ground has also been rejected by the Trial Court by holding that possession has been sought by removing structure made thereon, the valuation will have to be done as provided in the provisions contained in Section 7(V) of the Court Fee Act, whereby twenty times the land revenue is to be taken as the basis. In the opinion of this Court, the ground on which the impugned order has been passed rejecting application under Order 7 Rule 11 of CPC, at this stage, does not warrant any interference, it will be open for the petitioner/defendant to raise all the grounds in their written statement which will be followed by appropriate issue to be decided by the trial Court in the trial.

4. Accordingly, the petition is dismissed.

Sd/-

Manindra Mohan Shrivastava

Judge