

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 28 of 2016**

1. Narendra Tiwari S/o Late Ram Manohar Tiwari, Aged About 42 Years R/o Karbala Road, Bilaspur, Tahsil & District Bilaspur (Chhattisgarh) Civil & Revenue District Bilaspur. (Chhattisgarh).....(Plaintiff)

---- Petitioner

Versus

1. Smt. Usha Tiwari Wd/o Late Surendra Tiwari, Aged About 57 Years R/o Karbala Road, Bilaspur, Tahsil & District Bilaspur (Chhattisgarh).....(Defendant)
2. Kumari Varsha Tiwari, D/o Late Surendra Tiwari, Aged About 28 Years R/o Karbala Road, Bilaspur, Tahsil & District Bilaspur (Chhattisgarh).....(Defendant)
3. Surendra Tiwari, S/o Late Rammanohar Tiwari, R/o Kashyap Colony, Bilaspur, Tahsil & District Bilaspur (Chhattisgarh).....(Defendant)

---- Respondents

For Petitioner : Shri D.C. Verma, Advocate

HON'BLE SHRI JUSTICE CHANDRA BHUSHAN BAJPAI**Order on Board****15/01/2016**

1. Heard on admission.
2. The petitioner had filed the instant Writ Petition (227) against the order passed on 23.10.2015 in Civil Suit No. 617A/2014 (Narendra Tiwari Vs. Smt. Usha Tiwari & Ors.) whereby and whereunder the Court below had dismissed the application of the plaintiff/petitioner under Order 11 Rule 12 of the Code of Civil Procedure, 1908 (for short 'the Code'). It is submitted that for no appropriate cause the Court below has dismissed the petition and appreciated that since the document sought for discovery is a

public document hence, looking to the facts of the case for discovery of those documents vide Order 11 Rule 12 of the Code, at this stage, is not appropriate. It is submitted that though the document is a public document but that may not be the reason for rejection of the prayer. Hence, it is prayed by filing the instant Writ Petition that the impugned order dated 23.10.2015 be set aside and appropriate orders be passed on the application filed by the plaintiff before the Court below. It is submitted that the matter be admitted for hearing and the relief as prayed for may be given to the plaintiff.

3. Order 11 Rule 12 of the Code read as under :

12. Application for discovery of documents— Any party may, without filing any affidavit, apply to the Court for an order directing any other party to any suit to make discovery on oath of the documents which are or have been in his possession or power, relating to any matter in question therein. On the hearing of such application the Court may either refuse or adjourn the same, if satisfied that such discovery is not necessary, or not necessary at that stage of the suit, or make such order, either generally or limited to certain classes of documents, as may, in its discretion be thought fit :

Provided that discovery shall not be ordered when and so far as the Court shall be of opinion that it is not necessary either for disposing fairly of the suit or for saving costs.

4. From bare perusal of the entire Order 11 Rule 12 it appears that the same discovery is not necessary either for disposing fairly of the suit or for saving costs the order for discovery shall not be ordered.

5. Perused the impugned order passed by the Court below.

6. The Court below after due appreciation held that the Court may either refuse or adjourn the same, if satisfied that such discovery is not necessary, or not necessary at that stage of the suit, or make such order, either generally or limited to certain classes of documents, as may, in its discretion be thought fit.

7. Court below has held that the revenue documents are public documents hence as per the facts of the case, discovery of said documents under Order 11 Rule 12 is not necessary at this stage.

8. On due perusal it appears that since the documents sought by the plaintiff is a public document being the revenue document. He can very well obtain the certified copy of the said document from the revenue authorities. Even otherwise, the parties are under obligation to prove their pleadings, if any.

9. Considering the facts of the case, I do not see any illegality or impropriety in the order impugned warranting interference by this Court.

10. Consequently, the instant writ petition is dismissed at the motion stage itself.

11. No order as to cost.

Sd/

(Chandra Bhushan Bajpai)

JUDGE