

HIGH COURT OF CHHATTISGARH, BILASPUR

MA No. 20 of 2015

1. Poonam Singh, S/o Rajpal Singh, Aged About 35 Years, R/o Village Budgahan, Tahsil Baloda, District Janjgir-Champa C.G.
2. Payal Singh, D/o Rajpal Singh, Aged About 25 Years, R/o Village Budgahan, Tahsil Baloda, District Janjgir-Champa C.G.
3. Pallavi Singh, D/o Rajpal Singh, Aged About 22 Years, R/o Village Budgahan, Tahsil Baloda, District Janjgir-Champa C.G.

---- Appellants

Versus

1. Ram Kumar, S/o Nandau Aged About 65 Years R/o Baloda, District Janjgir Champa C.G.
2. Ashwani Kumar S/o Nandau Aged About 47 Years R/o Baloda District Janjgir Champa C.G.
3. Smt. Kachra Bai W/o Lakhpati Aged About 70 Years Through Power Of Attorney Shri Bal Mukund, Son Of Ramlal Aged 36 Years Resident Of Jharradih, Tahsil Baloda, District Janjgir Champa C.G.
4. Rameshwar S/o Dharamlal Aged About 35 Years R/o Jarradih, Tahsil Baloda, District Janjgir Champa C.G.
5. Nanki S/o Gayadeen Aged About 95 Years R/o Nagpura, Tahsil Baloda, District Janjgir Champa C.G.
6. Tahsildar, Tahsil Baloda, District Janjgir Champa C.G.
7. Revenue Inspector Baloda District Janjgir Champa C.G.
8. State Of Chhattisgarh Through Collector Janjgir Champa C.G.

---- Respondents

For Appellants	:	Shri Sanjay Patel, Advocate
For Respondents No.1, 2, 4 & 5	:	Shri P.K. Patel, Advocate
For Respondent/State	:	Shri Neeraj Sharma, Dy. Govt. Advocate

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

04/01/2016

Heard.

1. This appeal is directed against the impugned order dated 20th November, 2014 by which the learned lower appellate Court has set aside the order dated 20.11.2013 of the trial Court and remanded the case to the trial Court.
2. Learned counsel for the appellant pointedly argued that the appellants' application under Order VII Rule 11 CPC was allowed not only taking into consideration non-joinder of necessary party but also on a specific prayer that suit for simpliciter injunction without seeking relief of declaration that the sale transaction is null and void is not maintainable. Further, that the suit against the order passed by the Revenue Board is barred under the law.
3. Learned counsel for the respondents submits that as the trial Court summarily dismissed the suit without examining the issues in detail, learned lower appellate Court committed no illegality in passing the impugned order.
4. On an apparent reading of the impugned order, it is clear that the learned lower appellate Court has not taken into consideration nor traversed the finding of learned trial Court on the issue relating to maintainability of the suit on the ground that without seeking declaration against the transaction as null and void, decree of simpliciter injunction could not be granted and for that reason, suit is not maintainable. Learned lower appellate Court has also not taken into consideration the issue with regard to maintainability of the suit on the ground that challenge to an order of revenue Court, is barred under the law. Therefore, impugned order cannot be sustained.
5. Therefore, the matter is remanded to the learned lower Appellate Court to re-consider all the findings of the trial Court and then decide the matter in accordance with law.
6. The appeal is accordingly allowed to the extent and in the manner indicated above.

Sd/-
(Manindra Mohan Shrivastava)
Judge