

HIGH COURT OF CHHATTISGARH, BILASPUR
Civil Revision No.31 of 2016

Smt.Koushilya Devi wife of Shri Jhallu Ram Soni, aged about 70 years, R/o. Patwari Halka No.14, Indravati Nagar, Bajrangpara, Kohka, P.S. Supela, Bhilai, Tahsil and District Durg (CG)

---Applicant

Versus

1. Baldev Singh son of Shri Bela Singh, aged about 55 years, R/o. Plot No.118, Street No.13, Smriti Nagar, P.S. Supela, Bhilai, Tahsil and District Durg (CG)
2. Nagar Palik Nigam Bhilai, Through the Commissioner, G.E. Road, Ward No.5, P.S. Supela, Bhilai, Tahsil and District Durg (CG)
3. State of Chhattisgarh, Through: The Collector, Durg (CG)

---Respondents

For Applicant	: Mr. Raghvendra Pradhan, Advocate
For Respondent No.2	: Mr.H.B.Agrawal, Sr.Advocate with Mrs.Itu Rani Mukharjee, Advocate
For Respondent No.3	: Mr.Sameer Behar, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

17/06/2016

1. The plaintiff/respondent No.1 has filed civil suit for declaration of title, permanent injunction and recovery of possession and valued the suit as ₹ 10,00,600/- and paid the court fees as ₹ 1,004/-. The Plaintiff valued the suit for declaration of title ₹ 300/-, for permanent injunction ₹ 300/- and paid twenty times of the land revenue under Section 7 (v) of the Court Fees Act, 1870 (hereinafter referred as "the Act of 1870")

2. Defendant No.1/applicant filed an application under Order 7 Rule 11 (a), (b), (c) of the Code of Civil Procedure (hereinafter called as 'CPC') that suit has been valued ten times of the revenue, but court fee has not been paid as per market value, therefore, it is liable to be

dismissed.

3. The trial Court by its impugned order dated 23.1.2016 rejected the application holding inter-alia that the plaintiff has rightly valued the suit as per Section 7 (v) of the Act of 1870 as the suit is assessed to the land revenue and court fee has properly been paid.

4. Learned counsel for the applicant would submit that learned trial Court has committed jurisdictional error in rejecting the application filed by the applicant/defendant No.1 under Order 7 Rule 11 of the CPC.

5. Respondents No.2 and 3 have formally supported the impugned order.

6. The trial Court has clearly recorded the finding that the suit land is assessed to the land revenue.

7. It is well settled that in order to decide the application under Order 7 Rule 11 of the CPC, plaint averment has to be seen and taking the plaint as a whole, it appears that the suit has properly been valued, then written statement and application under Order 7 Rule 11 of the CPC cannot be taken into consideration while deciding the application.

8. The trial Court after examination of the plaint averment has found that suit has properly been valued and court fee has properly paid and has rightly rejected the application filed under Order 7 Rule 11 of the CPC.

9. After hearing learned counsel appearing for the parties and after going through the impugned order, I do not find any jurisdictional error in

the impugned order.

10. Consequently, the civil revision being without substance is liable to be and is accordingly dismissed.

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-