

HIGH COURT OF CHHATTISGARH, BILASPUR

CR No. 143 of 2014

1. South Eastern Coal Field Limited Thru- The President/Managing Director, Head Quarter- Seepat Road, Bilaspur, Distt. Bilaspur (C.G.)
2. South Eastern Coal Field Limited Thru- The Chief Vigilance Officer, Head Quarter Seepat Road, Bilaspur, Distt. Bilaspur (C.G.)
3. South Eastern Coal Field Limited Thru- The Director, Technical (Operation), Head Quarter Seepat Road, Bilaspur, Distt. Bilaspur (C.G.)
4. South Eastern Coal Field Limited Thru- The General Manager (E&M), Head Quarter Seepat Road, Bilaspur, Distt. Bilaspur (C.G.)
5. South Eastern Coal Field Limited Thru- The General Manager (MM), Head Quarter Seepat Road, Bilaspur, Distt. Bilaspur (C.G.)
6. South Eastern Coal Field Limited Thru- The General Manager (MM), Central Stores, Korba, 495677 (C.G.)

---- Applicants

Versus

1. Amar Engineering Works, A Proprietorship Firm, Thru- its Proprietor, Ms. Rupa Jhunhunwala, W/o Ashok Kumar Jhunhunwala, Aged about 55 Yrs, Having its Office & Works at 4/c, Salkia School Road, Howrah- 711106 (W.B.)
2. Coal India Limited Thru- its Chairman, # 10, Netaji Subhash Road, Kolkata, 700001, West Bengal.

---- Non-applicants

For Applicants : Shri Vivek Chopda, Advocate
For Respondent No.1 : Shri Ratnesh Kumar Agrawal,
Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

12/08/2016

1. Plaintiff/respondent No.1 filed a civil suit claiming relief of declaration, specific performance of contract and injunction before the

Trial Court in which the applicants/defendants filed an application under Order 7 Rule 11 of Code of Civil Procedure (for short 'CPC') stating *inter alia* that suit as claimed is not maintainable and liable to be dismissed. It was further pleaded that Amar Engineering Works is a proprietorship firm and suit can be filed through its proprietor and not by Amar Engineering Works, as such Civil Suit under order 30 Rule 10 CPC is barred. It has also been pleaded that the suit has not been properly valued and therefore, it is liable to be rejected under Order 7 Rule 11(11) of CPC.

2. Reply was filed before the trial Court opposing the said application. The trial Court vide its impugned order rejected the application holding that suit is barred under Order 7 Rule 11 (b) of CPC and rejected the application itself against which this revision petition has been filed.

3. Mr. Vivek Chopda, learned counsel appearing for the applicants/defendants would submit that the trial Court has committed jurisdictional error in rejecting the application under Order 7 Rule 11 of CPC. As the trial Court has committed jurisdictional error by rejecting the application under Order 7 Rule 11 of CPC, as such suit was not filed in the name of proprietor, it was filed in the name of proprietorship firm and the suit was not

valued properly and it is barred by Sections 7 and 10 of the Specific Relief Act.

4. On the other hand, Mr. Ratnesh Kumar Agrawal, learned counsel appearing for respondent No.1 would support the impugned order.

5. I have heard learned counsel for the parties and perused the record of the case.

6. The suit has been filed by the proprietorship firm through its proprietor Ms. Rupa Jhunhunwala. It is not in dispute that the work was awarded to Amar Engineering Works and Ms. Rupa Jhunhunwala is only the proprietor and as such the institution of the suit through proprietorship firm to whom the work was awarded by appellant/SECL, the trial Court has rightly held that the suit has properly been instituted by the proprietorship firm/plaintiff.

7. The trial Court has clearly recorded a finding that the suit is not under valued and it is properly valued in which I do not find any jurisdictional error in the impugned order. The trial Court has rightly held that the plea based under Sections 7 & 10 of the Specific Relief Act, suit cannot be held to be barred by law requiring rejection of plaint.

8. As a result, I do not find any jurisdictional error in the impugned order. The Civil Revision deserves to be and is accordingly dismissed.

9. Since the suit was filed on 02-08-2014, the trial Court is directed to conclude the trial within a period of six months from the date of receipt of this order. Record of the trial Court be sent forthwith along with copy of this order.

Sd/-
(Sanjay K. Agrawal)
JUDGE