

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 703 of 2015

1. Smt. Sujata Mitra W/o Prasannajeet @ Subhash Mitra, Aged About 44 Years R/o Vinoba Nagar, Near Gali No. R- 2, Bilaspur, Tahsil & District Bilaspur (Chhattisgarh)

---- Petitioner

Versus

1. Dr. Krishna Pratap Pandey S/o Shri Keshav Prasad Pandey, Aged About 46 Years R/o Imlipara, Gali No. 2, Old Bus Stand Road, Bilaspur, Tahsil & District Bilaspur (Chhattisgarh)
2. State Of Chhattisgarh, Through Collector, Bilaspur, District Bilaspur (Chhattisgarh) (Formal Party)

---- Respondent

For Petitioner	Shri Sudhir Bajpai, Advocate
For Respondent No.1	Shri K.R. Nair, Advocate
For Respondent/State	Shri Avinash Singh, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

11/07/2016

1. By the impugned order, the trial Court has rejected the petitioner/defendant No.1's application under Order 14 Rule 5 of the Code of Civil Procedure, 1908 ('the CPC' for brevity) for framing the additional issue to the effect as to whether the suit is barred by limitation.

2. Plaintiff has filed a suit for specific performance and delivery of possession. In the written statement filed by the petitioner/defendant No.1 plea has been raised that no cause of action has arisen for filing of the present suit. Based on this pleading contained in para 17 of the written statement the application under Order 14 Rule 5 of the CPC has been filed for framing additional issue.
3. Plain reading of the pleadings of the written statement would indicate that there is no plea about the suit being barred by limitation. Plea is only to the effect that there is no cause of action for filing the present suit. Cause of action for filing a suit and the suit being barred by limitation are two different matters.
4. In absence of plea in the written statement regarding the suit being barred by limitation, the trial Court has not committed any such irregularity or illegality warranting interference by this Court under Article 227 of the Constitution of India.
5. In the result, the writ petition, being bereft of merit, is liable to be and is hereby dismissed. No order as to costs.

Sd/- Judge

Prashant Kumar Mishra

Gowri