

HIGH COURT OF CHHATTISGARH, BILASPURCivil Revision No.103 of 2015

Preet Kumar Sharma, S/o Ram Prasad Sharma, aged 65 years, R/o Ward No.10, Kawardha, District Kabirdham (C.G.), presently R/o Kumharpara, Ward No.10, Gariyaband, District Gariyaband (C.G.)

(Defendant No.1)
---- Applicant

Versus

1. Gajendra, S/o Goverdhan, Caste Kurmi,
2. Lakhan, S/o Goverdhan, Caste Kurmi,
3. Ratan, S/o Goverdhan, Caste Kurmi,

All are R/o Maruti Ward, Kawardha, District Kabirdham (C.G.)
---- (Plaintiffs)

4. Ramkripeswar Upadhya, S/o Parmanand Upadhya, R/o Mahavir Swami Chowk, Main Road, Kawardha, District Kabirdham (C.G.)
5. State of Chhattisgarh, through Collector, Kabirdham (C.G.)
(Defendants No. 2 & 3)
---- Non-applicants

For Applicant:	Mr. Malay Shrivastava, Advocate.
For Non-applicants	
No.1, 2 & 3:	Mr. Vaibhav A. Goverdhan, Advocate.
For Non-applicant	
No.5/State:	Mr. Neeraj Jain, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

24/06/2016

1. In a suit filed by non-applicants No.1 to 3 herein / plaintiffs claiming declaration that the sale deeds dated 8-1-1962 and 14-6-2013 are null and void, the applicant herein / defendant

No.1 filed an application under Order 7 Rule 11 of the CPC inter alia on the ground that the plaint discloses no triable cause of action and the suit ought to have been valued on the sale deeds as per valuation of the sale deeds and Court fees ought to have been affixed accordingly and the suit is barred by limitation. The trial Court by its impugned order rejected the application under Order 7 Rule 11 of the CPC stating inter alia that in the aforesaid sale deeds which are sought to be challenged, the plaintiffs are not party and therefore they they have not valued the suit as per the value of the sale deeds and the plaint discloses cause of action and thus, the suit is within limitation. The aforesaid order has been challenged by way of revision.

2. Mr. Malay Shrivastava, learned counsel appearing for defendant No.1, would submit that the trial Court has no pecuniary jurisdiction to try the suit in view of the provisions contained in Section 6 of the Chhattisgarh Civil Courts Act, 1958 and since it is a pure question of law, it may be raised at revisional stage also.
3. Whereas, Mr. Vaibhav A. Goverdhan, learned counsel appearing for the plaintiffs, would submit that such a question was never raised before the trial Court and therefore in the revision filed questioning the rejection of application under Order 7 Rule 11 of the CPC, such a question cannot be raised.
4. By the impugned order, the trial Court has clearly held that the

suit discloses triable cause of action, it is not barred by limitation and the suit has been properly valued. I do not find any jurisdictional error in the impugned order. However, the question of pecuniary jurisdiction of the court not having been raised by defendant No.1 in the trial Court, it is open to defendant No.1 to raise such a question before the trial Court.

5. With the aforesaid observation, the civil revision is dismissed.

No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma