

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 59 of 2016

1. Rajendra Kumar Batra S/o Late Shri Brijlal Batra, Aged About 74 Years R/o House No. 37/15/74, Pt. Jawaharlal Nehru Ward, Jawahar Nagar, Raipur (Chhattisgarh) Another Address: C/o Sanjay Batra, S/o Shri Rajendra Kumar Batra, Birbal Punjabi Hotel, Sharda Chowk, M G Road, Raipur, Tahsil And District Raipur (Chhattisgarh)

---- Petitioner

Versus

1. Harinarayan Batra S/o Late Shri Brijlal Batra, R/o Sheetal Medical Stores, Near Vivekanand Aashram, G E Road, Raipur, Tahsil And District Raipur (Chhattisgarh)

---- Respondent

For Petitioner : Smt. Fouzia Mirza, Advocate

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

25/01/2016

1. Heard on admission.
2. The petitioner had filed the instant Writ Petition (227) against the order dated 17.11.2015 passed by the 14th Civil Judge, Class-II, Raipur (CG) in Civil Suit No.33A/12 (Harinarayan Batra Vs. Rajendra Kumar Batra) whereby and whereunder the Court below while appreciating the issue regarding valuation and Court Fee in the plaint held that as the petitioner/defendant pleaded that the suit be valued on the basis of the market price and as the suit is not valued as per market value nor sufficient Court Fee as required is affixed, the Court had dismissed the prayer made by the petitioner/defendant.
3. The Court below vide order dated 17.11.2015 observed that as per relief clause of the plaint, the suit has been filed for declaration and permanent injunction. For declaration of joint ownership and possession

the plaintiff/respondent had valued the suit for Rs.2,000/- and thereby affixed the Court fee for Rs.200/-. The same is properly valued and proper Court Fee has been affixed along with the plaint. The Court below dismissed the objection raised by the petitioner/defendant in this behalf.

4. On behalf of the petitioner it is submitted that while perusal of para 16 (1) relief clause of the plaint it goes to show that the plaintiff has also prayed for possession as they were dispossessed over the suit property, hence, they are required to affix the Court Fee and value their plaint as per market value. It is submitted that the matter may be admitted for consideration and after hearing the matter, relief as prayed may be granted to the petitioner and the matter be remanded back to the Court below with a direction to decide the preliminary issue regarding payment of Court fee afresh taking into consideration the relief sought by the plaintiff in the suit after providing due opportunity to the parties in accordance with law.

5. For the purposes of appreciation regarding admission of the instant writ petition impugned order dated 17.11.2015 is perused.

6. From perusal of the impugned order it goes to show that the parties were given opportunity to be heard before passing the impugned order. The Court below after perusal of relief clause in para 14 and 16 of the plaint regarding valuation held that the suit is properly valued and hence dismissed the objection regarding insufficient affixing of the Court fee and improper valuation of the suit.

7. On due consideration after perusal of the pleadings made in the plaint pending before the Court below, in the considered view of this Court, the trial Court had not committed any illegality or impropriety while passing the impugned order dated 17.11.2015. As per pleadings of the plaint for

the moment the suit is properly valued and Court fee as required is affixed,
I am not inclined to admit the instant petition for hearing as the same is not
maintainable on the face of the record itself.

8. Consequently, the instant writ petition is dismissed at the motion
stage itself.

9. No order as to cost.

Sd/-

(Chandra Bhushan Bajpai)
Judge