

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No.6 of 2016**

- Sheikh Najeer, S/o late Shri Sheikh Papa, aged about 60 years, R/o Juni Hatri, Rajnandgaon, District Rajnandgaon (C.G.)

---- **Petitioner****Versus**

- Anish Ahmand Khan, S/o Late Shri Noor Khan, aged about 50 years, R/o Hamalpara, Rajnandgaon, District Rajnandgaon (C.G.)

---- **Respondent**

For Petitioner	:	Shri B.P.Singh, Advocate
For Respondent	:	Shri Anup Majumdar, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****11/07/2016**

In a suit for recovery of possession from the licensee, the trial Court has rejected the defendant's application under Order 14 Rule 5 of the C.P.C. for framing additional issues.

- On 09.01.2014, the trial Court has framed five issues, namely,
 - whether the plaintiff is entitled to recover possession of the suit house;
 - whether the plaintiff is entitled to seek damages @ Rs.100/- per day from 01.11.2012 to 21.12.2012 and further sum of Rs.2,100/- for his illegal occupation;
 - whether the plaintiff is entitled for damages at the rate of Rs.100/- per day from the date of filing of suit till recovery of possession; and
 - whether the defendant is entitled to compensation of Rs.10,000/- on account of the false and vexatious suit filed by the plaintiff.
- In the subject application, the defendant has proposed nine issues to the effect that:
 - whether the plaintiff is entitled to prefer the suit;

- ii) whether the suit is barred by limitation;
- iii) whether the suit is barred by any provision of law;
- iv) whether the plaintiff is in possession and its title holder of the property;
- v) if the plaintiff is not the title holder, whether he can evict the defendant and seek damages;
- vi) whether the plaintiff's name is recorded in the revenue record, if not, the effect thereof;
- vii) whether there is any tenancy agreement between the plaintiff and defendant;
- viii) whether the plaintiff is bound by the order passed by the Revenue Court on 24.04.2001 and 28.02.2005, therefore, he is not entitled to file the suit; and
- ix) whether the plaintiff is entitled to file the present suit without seeking declaration of title from the Civil Court.

4. The trial Court has rejected the prayer for framing additional issues by observing that the earlier framed issues would cover all the proposed issues, therefore, framing of additional issues is not required.

5. Having heard learned counsel for the parties and on perusal of the pleadings, it appears, except for the issue concerning limitation, all other proposed issues are already covered in the issues already framed. Needless to say that when the trial Court is of the opinion that proposed issues are covered within the issues already framed, the parties would be granted opportunity to lead evidence on all aspects including the aspects proposed by the petitioner in his application under Order 14 Rule 5 of the C.P.C.

6. For the foregoing, the writ petition is disposed of with a direction to the trial Court to frame additional issue as to whether the suit is barred by limitation and thereafter decide the same in accordance with law at the earliest, preferably within a period of nine months from today.

Sd/-
Judge
(Prashant Kumar Mishra)