

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 769 of 2016

- Jaspal Singh Saluja S/o Shri Mangal Singh Saluja, aged about 59 years, R/o Govind Nagar, Near Gurudware Pandri, Raipur, Tahsil & District Raipur (C.G.) Mobile No. 9111968789

---- Petitioner

Versus

1. Mangal Singh Saluja S/o Late Karam Singh Saluja, aged about 78 years.
2. Virendra Singh Saluja S/o Shri Mangal Singh Saluja, aged about 42 years,

Both are R/o Ajad Chowk, G.E. Road, Raipur, Tahsil & District Raipur (C.G.)

---- Respondents

For Petitioner	:	Shri Y.C. Sharma and Shri Govind Dewangan, Advocates.
For Respondents	:	None

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

19/12/2016

Heard on admission.

2. Challenge in the present petition filed under Article 227 of the Constitution of India is to the order dated 11.11.2016 passed by the 7th Additional District Judge, Raipur, in Civil Suit No.168-A/2015 whereby the Court below has dismissed the application as filed by the petitioner under Order 7 Rule 11 of CPC read with Section 7(v) of the Court Fees Act, 1870.

3. From the fact it appears that the plaintiff filed a suit against the petitioner/defendant for eviction and compensation on the ground that he is the owner of the house in question and the same was given to the petitioner on his request for temporary period on the assurance that as and when required, the house would be vacated. Upon receiving the notice, the petitioner/defendant filed an application under Order 7 Rule 11 of CPC read

with Section 7(v) of the Court Fees Act, 1870 saying that the valuation of the suit has not been done properly and it should have been valued on the market rate. Vide impugned order, the trial Court has dismissed the application accepting the argument of plaintiff that valuation is not required to be done on the market rate in the suit filed for eviction, and the application has been filed just to harass the plaintiff.

4. All that apart, in the matters of **Surya Dev Rai Vs. Ram Chander Rai (2003) 6 SCC 675**, **Shalini Shyam Shetty Vs. Rajendra Shankar Patil (2010) 8 SCC 329** and **Sameer Suresh Gupta through PA Holder Vs. Rahul Kumar Agarwal (2013) 9 SCC 374** it has been consistently held by the Apex Court that supervisory or certiorari jurisdiction is not available to correct mere errors of fact or of law unless the following requirements are satisfied :

(I) the error is manifest and apparent on the fact of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and

(II) grave injustice or gross failure of justice has occasioned thereby.

It is further held by the Apex Court that issuance of writ of certiorari in exercise of supervisory jurisdiction should be resorted to sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion.

5. Thus considering the aforesaid factual and legal position, there appears to be no illegality or perversity in the order impugned passed by the Court below warranting interference by this Court in exercise of the jurisdiction under Article 227 of the Constitution of India.

6. Accordingly, the writ petition filed under Article 227 of the Constitution of India deserves to be and is hereby dismissed at the admission stage itself.

Sd/-

(Pritinker Diwaker)

JUDGE