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HIGH COURT OF CHHATTISGARH, BILASPUR

Civil Revision No. 128 of 2013

1. Chairman (Wrongly mention as president), C.G. State Electricity Board, (Now Through its successor company, C.S.P.D.C.L, Gudyari, Raipur (C.G.)
2. Executive Engineer, C.G. State Electricity Board (Now through its successor company C.S.P.D.C.L.), Jagdalpur (C.G.)....Defendant

---- Applicants

Versus

1. Sita Ram Nag, S/o Somnath Nag, caste- Mahar, aged 45 years, R/o Kaknar, Tehsil – Jagdalpur, District Bastar (C.G.)
2. State of C.G. Through Collector, Jagdalpur, District Bastar (C.G.)

---- Respondents

And

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---- Respondents

For Applicants : Mr. Abhishek Sinha, Advocate.
For Respondent No.1 : Mr. Prafull N. Bharat, Advocate.
For Respondent No. 2 : Mr. Vinod Deshmukh, Dy. Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

13/07/2016

(1) Civil Revision Nos. 128/2013 & 129/2013, involve common facts and common question of law and, as such, require consideration and disposal by the common order.

(2) The applicant, by way of these revisions, questioned the legality, validity and correctness of the order dated 29.07.2013 by which the plaintiffs' suit is held to be within limitation and case has been fixed for framing of the issues.

(3) Learned counsel appearing for applicant in both the revisions would submit that as per Article 82 of the Limitation Act two years limitation period has been prescribed for filing the suit and since the plaintiff has not filed the suit within a period of two years, therefore, the suit is barred by limitation and, as such, the order impugned passed by the trial Court liable to be dismissed.

(4) Learned counsel appearing for respondent No.1/plaintiff would submit that the suit filed by the plaintiff is under Order 33 Rule 1 of the CPC and therefore, Article 82 of the Limitation Act is not applicable and as per Article 133 limitation of 3 years is prescribed for filing the suit and, therefore, suit filed by the plaintiff is well within the limitation.

(5) After hearing learned counsel appearing for the parties, this Court is of the view that the question of limitation is a mixed question of law and facts, which has to be decided by the trial Court after framing issues in this regard and after recording evidence thereupon.

(6) Be that as it may, since the suit has been registered now, the applicants are free to raise all the pleas in the written statement including plea of limitation and if the plea of limitation is raised by the applicants in their written statement, it is expected from the trial Court to decide the same after recording evidence of the parties without being prejudice of the impugned order dated 29.7.2013, if already not raised.

(7) With the aforesaid observations, the civil revisions stand finally disposed of.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-