

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No. 54 of 2015

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Bikrama Pandey Son of Late Baidyanath Pandey, resident of village-
Padariyha, P.O.- Bhakura, P.S.- Tarari, District- Bhojpur

.... Defendant No. 1/ Petitioner

Versus

1. Kamalapati Tiwari W/o Late Gupteshwar Tiwari
2. Jai Mangal Tiwari S/o Late Ram Naresh Tiwari
3. Sripati Tiwari S/o Late Ram Das Tiwari

All are resident of village- Nawadih, P.O.- Katriyha, P.S.- Dawath,
District- Rohtas

.....Plaintiffs-Opposite Parties 1st Set

4. Shankar Dayal Tiwari, son of Late Shiv Das Tiwari
5. Kamakhya Narayan Tiwari, son of Late Shiv Das Tiwari Both (4 & 5)
permanently resident of village- Nawadih, P.O.- Katriyha, P.S.- Dawath,
District- Rohtas, present address- Street No. 5, Q. No. 426 C.D. Gomo, P.O.
+ P.S.- Gomo, District- Dhanbad (Jharkhand) Pin- 828401

.... Defendants No. 2 &3/ O.P. 2nd Set

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Appearance :

For the Petitioner/s : Mr. Siddharth Harsh
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

2 18-05-2017 Heard learned counsel for the petitioner and
perused the record.

This revision petition has been preferred against
the order dated 03.03.2015 passed by the learned Munsif,
Bikramganj in Title Suit No 87 of 2002 by which and where
under he refused to reject the plaint under Order 7 Rule 11(b)
of the C.P.C.



The opposite party filed Title Suit No 87 of 2002 against the petitioner and when petitioner appeared in the aforesaid title suit, he filed a petition under Order 7 Rule 11 of the C.P.C. raising that the aforesaid suit was undervalued by the plaintiff-opposite party and accordingly, prayed for rejection of the plaint under Order 7 Rule 11 (b) of the C.P.C. but the learned court below did not concede to the aforesaid petition and rejected the petition filed on behalf of the defendant-petitioner.

Order 7 Rule 11 (b) of the C.P.C. says that the plaint shall be rejected where the relief claimed is undervalued, and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the Court, fails to do so.

In the present case, admittedly, the learned court below did not give any opinion regarding valuation of the suit rather accepted the valuation given by the plaintiff-opposite party and, therefore, in my view, the provision of Order 7 Rule 11 (b) of the C.P.C. is not applicable. However, the learned court below has opined that the aforesaid question is a mixed question of fact and law and, therefore, in my opinion, the petitioner defendant may raise the aforesaid question at a later stage of the suit.



On the basis of aforesaid discussions, I do not find any force in this revision petition. Accordingly, this revision petition stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

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