

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Civil Revision NO. 77 OF 2017**

H.D.F.C. Ltd. Through Branch Manager, Alaska Tower, Opposite Aryogya Hospital, Lodhipara Road, Shankar Nagar, Raipur, P.S. Civil Lines, Civil And Revenue District Raipur, Chhattisgarh

---- Petitioner**Versus**

Dular Sai Chauhan S/o Kedar Nath Chauhan, Aged About 43 Years Law Assistant, S.E.C. Railway, Qr.No. 689/03 New Loco Colony, Bilaspur, P.S. Torwa, Revenue And Civil District Bilaspur, Chhattisgarh

---- Respondent

For Applicant : Mr. Mukesh Sharma, Advocate

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****04/05/2017**

1. Heard the learned counsel for the applicant.
2. This revision has been filed against the order dated 01/03/2017 passed by the 9th Additional District Judge, Raipur in Civil Case No.50-B of 2015, by which, the defendant's application filed under Order 7 Rule 11 read with Section 151 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC'), has been allowed.
3. Registry has raised an objection with regard to the maintainability of this revision in view of the proviso to Section 115 of the CPC.
4. Undisputedly, the trial Court while allowing the application of the defendant filed under Order 7 Rule 11 read with Section 151 of the CPC has rejected the plaint. Since the plaint has been rejected therefore, it amounts to a

decree by way of the provision prescribed under Section 2(2) of the CPC, therefore, the instant revision as framed under Section 115 of CPC is not maintainable, not on account of the objection as raised by the Registry but on account of the definition of “Decree” prescribed under Section 2(2) of the CPC, which includes the rejection of plaint. Under such circumstances, the only remedy available to the plaintiff is to file the regular appeal as per the provision prescribed under Section 96 of the CPC.

5. In view of the aforesaid facts and circumstances, the revision is dismissed as not maintainable.

6. At this stage, Mr. Sharma, prays for certified copy of the impugned order dated 01/03/2017, which was filed along with this revision.

7. As prayed for, Registry is directed to return the certified copy of the said order impugned dated 01/03/2017 after obtaining photocopy of the same. No order as to costs.

Sd/-

(Sanjay Agrawal)
Judge