

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (227) No.638 of 2017

Smt. Premlata Patel W/o Late Netram Patel, Aged About 35 Years R/o Village Banjipali, Tahsil Baramkela, District Raigarh, Civil & Revenue District Raigarh, Chhattisgarh

---- Petitioner

Versus

1. Amit Singh Saluja S/o Shri Surjit Singh Saluja, Aged About 41 Years R/o Bidpara, Raigarh, Tah. & Distt. Raigarh, Chhattisgarh
2. State Of Chhattisgarh, Through Collector, Raigarh, District Raigarh, Chhattisgarh

--- Respondents

For Petitioner : Mr. Manoj Kumar Sinha, Advocate
For State : Mr. Arvind Dubey, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

05/09/2017

(1) By the impugned order dated 04.07.2017, the trial Court has rejected the petitioner's application under Order 14 Rule 5 of CPC on the ground that the question of valuation of the suit and payment of court fees will be decided at the time of final hearing, against which this writ petition under Article 227 of the Constitution of India has been filed by the petitioner herein.

(2) Learned counsel appearing for the petitioner would submit that the issue No.6 ought to have been decided as preliminary issue and the impugned order passed by the trial Court is unsustainable and bad-in-law.

(3) I have heard learned counsel for the petitioner and perused the impugned order.

(4) Sub-rule (2)(a&b) of Rule 2 of Order 14 of CPC provides as

under:-

“2. Court to pronounce judgment on all issues.-(1)

Notwithstanding that a case may be disposed of on a preliminary issue, the Court shall, subject to the provisions of sub-rule(2), pronounce judgment on all issues.

(2) Where issues both of law of fact arise in the same suit, and the Court is of opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if that issue relates to-

(a) the jurisdiction of the Court, or

(b) a bar to the suit created by any law for the time being in force, and for that purpose may, if it thinks fit, postpone the settlement of the other issues until after that issue has been determined, and may deal with the suit in accordance with the decision on that issue.”

(5) As per provisions contained in sub-rule (2)(a&b) of Rule 2 of Order 14 of the CPC, only the issue relates to the jurisdiction of the Court, or at bar to the suit created by any law for the time being in force can be decided as preliminary issue. The issue No.6 proposed by the petitioner is not covered under sub-rule (2)(a&b) of Rule 2 of Order 14 of CPC therefore, the trial Court is absolutely justified in directing to decide that issue at the time of final hearing, in which I do not find any jurisdictional error.

(6) Consequently, the writ petition deserves to be and is accordingly dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-