

HIGH COURT OF CHHATTISGARH, BILASPUR

CR No. 8 of 2017

- Gayatri Prasad Kashyap Aged About 64 Years (At Present 65 Years)
S/o Late Shri Bhagwat Prasad Kashyap, Retd. Excise Officer R/o
Village & Post Baloudi Tahsil Palari, Distt. (Civil & Revenue)
Balodabazar, Chhattisgarh(Defendant No.1)

----Applicant

Versus

- Smt. Indu Mishra W/o Shri Madhusudan Mishra, Aged About 52 Years
Occupation Agriculture, Stitching & Weaving, R/o Prayag Kunj Bajrang
Chowk, Santoshi Nagar, P.S. Tikrapara, Tahsil & Distt. Raipur,
Chhattisgarh(Plaintiff)
- Lekh Ram Singhsarva S/o Late Shri Kaushal Prasad Sarva, Aged
About 74 Years Retd. Head Master, R/o Village & Post Pakaria
(Jhulan), Tahsil Akaltara, Distt. Janjgir-Champa,
Chhattisgarh(Defendant No.2)
- Raipur Development Authority, Raipur, Through: Chief Executive
Officer, Office At: New Rajendra Nagar, Near Ring Road, Raipur,
Tahsil & Distt. Raipur, Chhattisgarh(Defendant No.3)

---- Respondents

For Applicant	: Shri Yogesh Pandey, Advocate
For Respondent No.1 & 2	: None present
For Respondent No.3	: Shri Pankaj Agrawal, Advocat

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

30/01/2017

Heard on admission.

Challenge in the present revision filed under Section 115 of the Code of Civil Procedure is to the order dated 26.12.2016 passed by the Seventh Additional District Judge, Raipur in Civil Suit No. 170 A/2015 rejecting the application as filed by defendant No.1 under Order 7 Rule 11 CPC.

Counsel for the applicant submits that prima facie no cause of action arose in favour of the plaintiff and therefore the suit filed by the plaintiff ought to have been dismissed at the threshold.

Supporting the impugned order it has been argued by Shri Pankaj Agrawal, counsel for the respondent No.3 that the ground raised by the applicant in his application can only be adjudicated after adducing the evidence by the plaintiff.

I have heard counsel for the parties and perused the documents.

While passing the impugned order it has been observed by the court below that unless the plaintiff is permitted to lead his evidence, the suit filed by him cannot be rejected.

I find no illegality in the order impugned warranting interference under Section 115 C.P.C. The trial court appears to be justified in passing the impugned order. The revision is accordingly dismissed.

Sd/-

Pritinker Diwaker
Judge