

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (227) No.30 of 2016

Smt. Randeep Kaur Gujral W/o Shri Mahendra Pal, Aged About 50 Years
R/o Civil Lines, Daroga Para, Raigarh, Tahsil & Dist. Raigarh
(Chhattisgarh).

---- Petitioner

Versus

1. Shiv Shankar Awasthy S/o Devi Prasad Awasthy, R/o Baikunthpur,
Tahsil Raigarh, Dist. Raigarh (Chhattisgarh) Presently R/o Near
Rani Talab Mandir, Rewa, Tahsil Hujur, Dist. Rewa (Madhya
Pradesh).
2. Shrawan Kumar Mishra, S/o Ramakant Mishra, R/o Kaparganj,
Bilaspur (Chhattisgarh).
3. State Of Chhattisgarh, Through The Collector, Raigarh
(Chhattisgarh).

--- Respondents

For Petitioner : Mr. B.D. Guru, Advocate
For Respondent No.1: Mr. Vivek Chopda, Advocate
For Respondent No.2: Mr. Sunil Tripathi, Advocate
For Respondent No.3: Mr. Aditya Sharma, Panel Lawyer

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

29/08/2017

(1) The petitioner/defendant No.2 filed an application under Order 14 Rule 2 of CPC to decide the issue No.11 which relates to valuation of suit property and payment of court fees as preliminary issues before the trial Court. The trial Court by its impugned order dated 16.12.2015 has rejected the application and held that it will be decided at the time of final hearing alongwith the other issues. Against that order, this writ petition under Article 227 of the Constitution of India has been filed by the petitioner/defendant No.2 herein.

(2) Learned counsel appearing for the petitioner would submit that the trial Court has committed jurisdictional error in rejecting the

application.

(3) Per contra, learned counsel appearing for the respective respondents have support the impugned order and oppose the submission made by the learned counsel for the petitioner.

(4) I have heard learned counsel for the parties and perused the impugned order.

(5) 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.”

(6) By virtue of 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 and in the instant case all the issues have already been framed. The issue No.11 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 along with other issues, in which I do not find any jurisdictional error.

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

Sd/-

(Sanjay K. Agrawal)
Judge

L/-