

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (Art. 227) No.294 of 2018

Udaya Sahakari Grih Nirman Sanstha Maryadit Registration No. 75/81-82, Office-Udaya Nagar, Tatibandh, Raipur, Tahsil And District Raipur (Chhattisgarh) Through President Ghasi Ram Chandrakar, Udaya Sahakari Grih Nirman Sanstha Maryadit, Udaya Nagar, Raipur (Chhattisgarh), At Present President- Jagdish Singh Bhamra S/o Late Swarn Singh, Aged About 68 Years, R/o Sector-3, B/22-10, Udaya Nagar, Tatibandh, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

(Plaintiff)
---- Petitioner

Versus

1. M/s Singhanian Buildcon Private Limited Through Director Subodh Singhanian S/o Shri Shyamlal Singhanian, Tatibandh, Aamanaka, G.E. Road, Raipur, Tahsil And District Raipur Chhattisgarh, At Present Office Shyam Tower, Kabirnagar Mod, Hirapur Raipur, Tahsil And District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Municipal Corporation, Raipur Through Commissioner, Municipal Corporation, Raipur Chhattisgarh
3. Zone Commissioner, Zone No. 8, Mohababazar, Municipal Corporation, Raipur Chhattisgarh
4. The State Of Chhattisgarh Through Collector, Raipur, District Raipur Chhattisgarh
5. Ritesh Agrawal S/o Shri Suresh Agrawal, R/o Samta Colony, Raipur, Tahsil And District Raipur Chhattisgarh
6. Vibuti Singh Thakur S/o Shri A.S. Thakur, R/o Near Turi Hatri, Purani Basti, Raipur Chhattisgarh
7. Smt. Gulshan W/o Shri Ashok Ahaliwaliya, R/o Harshit Ratna, Udayanagar, Tatibandh, Tahsil And District Raipur Chhattisgarh
8. Ku. Punam D/o Ashok Ahaluwaliya, R/o Harshit Ratna, Udayanagar, Tatibandh, Tahsil And District Raipur Chhattisgarh
9. Surendranath S/o Shivshankar Dev, R/o Sahakari Path, Choubey Colony, Raipur Chhattisgarh
10. Smt. Nisha W/o Shri Surendra Nath, R/o Sahakari Path, Choubey Colony, Raipur Chhattisgarh
11. R.K Tiwari S/o Shri N.L. Tiwari, R/o Bacheli, South Bastar, District Dantewada (Chhattisgarh)
12. Smt. Indu Singh W/o Shri Vijay Singh Thakur, R/o In Front Of Deshbandu Press, Nagar Nigam Colony, Raipur Chhattisgarh
13. Smt. Santosh Maheshwari W/o Shri Shiv Maheshwari, R/o Harsit Vihar, Hirapur, Tatibandh, Near Udaya Colony, Raipur Chhattisgarh
14. Smt. Nirmal Singh W/o Shri Varunjeet Singh, R/o Tatibandh, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
15. Charanjeet Singh S/o Shri Hardev Singh, R/o Tatibandh, Raipur Chhattisgarh
16. Amandeep Dillan S/o Sukhdev Singh, R/o B-29(1), Udaya Society, Tatibandh, Raipur Tahsil And District Raipur Chhattisgarh
17. Niranjana Agrawal S/o D.P. Agrawal, R/o Harsit Ratna, Udaya Nagar, Tatibandh, Raipur, Tahsil And District Raipur Chhattisgarh

(Defendants)
---- Respondents

For Petitioner	: Mr.A.K.Prasad, Advocate
For Respondent No.1	: Mr.Ashish Surana and Mr.Ankur Agrawal, Advocates
For Respondents No.2&3	: Mr.Pankaj Agrawal, Advocate
For Respondent No.4	: Mr.Arun Sao, Dy.A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

18/09/2018

1. By the impugned order, the application filed by defendant No.1 under Order 7 Rule 11 of the CPC has been partly allowed by the trial Court and it has been held that the plaintiff is required to pay court fees in accordance with the market value under Section 7 (v) of the Court Fees Act, 1870 (hereinafter called as 'the Act of 1870') within 15 days from the date of order.
2. Learned counsel for the petitioner would submit that the order impugned is unsustainable and bad in law, as the petitioner is ready and willing to pay court fees on the basis of registered sale deed dated 27.7.1987 by which he has purchased the suit property.
3. Learned counsel for respondent No.1/defendant No.1 would submit that the plaintiff is not required to pay court fees on the part which is to be demolished and for the land, he is required to pay court fees.
4. I have heard learned counsel for the parties.
5. Section 7 of the Act of 1870 deals with computation of fees payable in certain suits. Section 7(v)(c) and (d) read thus:

“7(v) For possession of lands, houses and gardens. —
In suits for the possession of land, houses and gardens – according to the value of the subject-matter; and such value shall be deemed to be – where the subject-matter is land, and –

(c) where the land pays no such revenue, or has been partially exempted from such payment, or is charged with any fixed payment in lieu of such revenue, and net

profits have arisen from the land during the year next before the date of presenting the plaint – fifteen times such net profits; but where no such net profits have arisen therefrom – the amount at which the Court shall estimate the land with reference to the value of similar land in the neighbourhood;

(d) where the land forms part of an estate paying revenue to Government, but is not a definite share of such estate and is not separately assessed as above mentioned the market value of the land.”

6. In the matter of **Balu Deochand Kulmi and another v. Fundibai Amichand Kulmi**¹, before the Full Bench of the M.P. High Court, the question was whether for purposes of assessing the Court fee in a suit regarding a fraction or part of a holding the whole of which is assessed to revenue or to payment of the nature of rent in the absence of revenue, the plaintiff should be required to pay the Court fee on his claim on the market value of the land under section 7(v)(d) of the Court Fees Act, or whether the subject-matter should be allowed to be valued on the basis of the revenue payable on the entire estate and the plaintiff should be allowed to distribute the land revenue proportionately on the area claimed by him in the suit.
7. The aforesaid question was answered by the Full Bench of the M.P. High Court as under: -

“28. For the abovesaid reasons, it is clear that where a suit is filed for a part of an estate or a share of an estate, but where such part or share of the estate is not separately assessed to land revenue, the Court fee is payable on the basis of the market value. In those cases where the suit is for an entire estate, or a defined share of an estate, or a part of an estate, assessed to land revenue as a unit, and the suit is for possession of the whole unit, the Court fee is to be charged on the value to be worked out on the basis of the multiple prescribed. On this reasoning, even when a suit is filed for a share of an estate not being any specified part thereof, the Court fee payable would be on the market value and not on the multiple to be worked out.”

8. Reverting to the facts of the present case in light of the judgment of the Full Bench in **Balu Deochand Kulmi** (supra), it is quite apparent

¹ AIR 1972 MP 22

that in the instant case, the land is diverted land which is not the revenue paying land and therefore in accordance with the aforesaid Full Bench decision, court fees would be payable under Section 7(v) of the Court Fees Act i.e. on the basis of market value of the land.

9. Now, the question what would be the market value of the land, whether it is on the basis of sale consideration mentioned in the sale deed which the petitioner has purchased or it is the present market value, will be considered by the trial Court in accordance with law and the plaintiff is at liberty to demonstrate and satisfy the trial Court in that regard that his claim based on sale consideration is market value of the suit land. That will be considered by the trial Court in accordance with law.
10. With the aforesaid observation, the writ petition stands finally disposed of. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

B/-