

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 358 of 2018**

- Mohanmati S/o Late Banshilal (W/o Shukhilal) Aged About 45 Years Caste Yadav, Occupation Cultivator, R/o Village Basantpur, Tahsil Malkharoda, At Present Village Tiur, Police Station And Tahsil Kharsia, District Raigarh Chhattisgarh

---- Petitioner**Versus**

1. Johanlal S/o Late Banshilal, Aged About 58 Years Caste Yadav
2. Pawarabai, Wd/o Banshilal, Aged About 80 Years Caste Yadav

Both are R/o Village Baantpur, Tahsil Malkharoda, District Janjgir Champa Chhattisgarh

3. State of Chhattisgarh, Through The Collector, Janjgir, District Janjgir Champa Chhattisgarh

---- Respondents

For Petitioner	:	Shri HS Patel, Advocate
For Respondents-State	:	Shri SRJ Jaiswal, PL for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****08/05/2018**

1. Heard.
2. The present petition is against the order dated 12.03.2018, whereby an application to frame additional issues under Order 14 Rule 5 CPC has been dismissed.
3. Perusal of the order would show that the plaintiff has claimed the right in respect of the land situated at village Basantpur, Tehsil Malkharouda and another land situated at Village Jhalronda, Tehsil Jaijaipur and both the claims have been made in one suit, therefore, the trial Court refused to frame the issue on the ground that the property of Village Jhalronda, Tehsil Jaijaipur since situates outside the jurisdiction of the Court, as such the

additional issues could not have been framed.

4. Learned counsel for the petitioner submits that the order of the Court below is completely misconceived in view of Section 17 CPC when the property is situated in two districts then in either of the district, the suit can be filed and the trial Court was bound to frame the issues.
5. Perusal of the plaint shows that the property is described in Schedule A & B and both the properties are agricultural land and one property is situated at village Basantpur, Tehsil Malkharouda and another land situated at Village Jhalronda, Tehsil Jaijaipur, both are under district Janjgir-Champa (C.G.). Section 17 CPC governs the filing of the suit in like nature of lis which purports that where a suit is to obtain relief respecting, or compensation for wrong to, immovable property situate within the jurisdiction of different Courts, the suit may be instituted in any Court within the local limits of whose jurisdiction any portion of the property is situate. Being protected by such Section the suit for two properties of different villages was filed before the Civil Judge, Class-II, Malkharoda, it was completely within the domain of Section 17 CPC. The claim having been made in respect of the property of village Jhalronda, the additional issues were prayed to be framed in respect of the village Jhalronda as additional issues No.3 & 4. Considering the nature of the prayer made, both the issues are required to be framed in the civil suit and the refusal to frame the issue would lead to indecisive act on the part of the Court below. Consequently, the order dated 12.03.2018 is set aside and the application filed under Order 14 Rule 5 CPC is allowed. The trial Court is directed to frame the issue as Issue No.4 & 5 as has been stated in the application.
6. Accordingly, the petition stands allowed.

Sd/-
Goutam Bhaduri
Judge

Ashu