

HIGH COURT OF CHHATTISGARH, BILASPUR**Civil Revision No. 65 of 2017**

Prahlad Ram, S/o Late Parasram Bajaj, age about 60 yeas, "Shopkeeper" R/o In front of Old Bus Stand, Dhamtari, District – Dhamari (C.G.)

---- Applicant/Defendant

Versus

Rambai, Daughter of Mehtar Lohar, Widow of Ghoor Singh, aged about 55 years, R/o Sunderganj Ward, Bastar Road, In front of Old Bus Stand, Dhamtari, District – Dhamtari (C.G.)

---- Respondent/plaintiff

For Applicant : Mr. Vishnu Koshta, Advocate.
For Respondent : Mr. R.S. Patel, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

27/08/2018

(1) By the impugned order dated 16.02.2017, application filed by the applicant/defendant under Order 7 Rule 11 of the Code of Civil Procedure (henceforth "CPC") has been rejected, against which instant civil revision has been by the applicant/defendant questioning the same.

(2) Learned counsel appearing for the applicant would submit that the trial Court is absolutely unjustified in rejecting the application filed under Order 7 Rule 11 of the CPC, as such, the suit property has not been properly valued and the requisite court fee has not been paid. He relied upon the judgment of this Court in the matter of **Jagdish Sahu Vs. State of Chhattisgarh and others**¹ in support of his submission.

(3) On the other hand, counsel for the respondent would support the impugned order.

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

(5) Earlier the civil suit has been filed respondent/plaintiff for eviction of the applicant/defendant on the ground of bonafide need, in which issues have been framed on 21.11.2012 and the said suit was dismissed as withdrawn with liberty to file fresh suit vider order dated 11.04.2007 passed in First Appeal No. 43 of 2006, and thereafter, instant civil suit for declaration, injunction and possession has been filed.

(6) The trial Court, by the impugned order dated 16.02.2017, has held that on the questions raised in the application under Order 7 Rule 11 of the CPC, issues have already been framed on 21.11.2012 and all that questions particularly with respect to the valuation can be decided after recording evidence. In the considered opinion of this Court, the trial Court is absolutely justified in rejecting the application filed under Order 7 Rule 11 of the CPC, in which I do not find any illegality or perversity warranting interference by this Court in the instant civil revision.

(7) Accordingly, the civil revision, being devoid of merit, is liable to be and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

