

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCR No. 51 of 2019

- Samuh Ratan Ram Baba, R/o Konsora (Mahuatoli), P.S. and Tahsil Kunkuri, District- Jaspur, Chhattisgarh..... (Defendant No.1).

---- Applicant

Versus

1. Mohri Bai W/o Sahalram aged about 60 Years Cast-60, R/o Lodham, (Girhaldhih), P.S. And Tahsil- Kunkuri, District- Jaspur, Chhattisgarh.....(Plaintiff).
2. State of Chhattisgarh Through- Collector- Jaspur, District- Jaspur, Chhattisgarh.....(Defendant No.2).

---- Respondents

For Applicant	:-	Shri Hemant Gupta, Advocate
For Respondent-State	:-	Shri Ghanshyam Patel, GA

Order On Board ByHon'ble Justice Shri Prashant Kumar Mishra25/06/2019

1. Heard.
2. Trial Court has dismissed petitioner's/defendant's application under Order 7 Rule 11 CPC for rejection of plaint on the ground that the suit is barred by limitation and a suit

simplicitor for declaration without praying any consequential relief is not maintainable.

3. It is settled law that an issue concerning limitation is a mixed question of law and fact, therefore, neither the plaint can be rejected nor the said issue can be tried as preliminary issue. For the second objection, which appears to be on the basis of Section 34 of the Specific Relief Act, it is to be noticed that the plaint itself is captioned as a suit for declaration of title along with confirmation of possession as also permanent injunction. It is also filed for declaring the Gift dated 10.05.2004 as null and void. Thus, it is apparent that the suit is not only for a declaratory relief but there are other consequential reliefs prayed in the plaint. Plaintiff claims to be in possession of suit property, therefore, he has prayed for a declaration for confirmation of possession. The suit is thus not barred nor the plaint can be rejected on this ground also.

4. There is no substance in the revision petition and accordingly, the same is liable to be and hereby dismissed. Trial Court is directed to decide the suit within 6 months.

Sd/-
(Prashant Kumar Mishra)
Judge