

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CR No. 205 of 2017**

Narendra Tiwari, Son of Late Shri Rammanohar Tiwari, aged about 42 years, resident of Karbala Road, Bilaspur, Tahsil & District Bilaspur (C.G.) Civil & Revenue District, Bilaspur

**---- Applicant
(Plaintiff)**

Versus

1. Smt. Usha Tiwari Wife of Late Surendra Tiwari, aged about 57 years
2. Kumari Varsha Tiwari, daughter of Late Surendra Tiwari, aged about 28 years

No. 1 & 2 are residents of Karbala Road, Bilaspur, Tahsil & District Bilaspur

3. Surendra Tiwari S/o Late Rammanohar Tiwari, resident of Kashyap Colony, Bilaspur, Tahsil & District, Bilaspur C.G.

**--- Respondents
(Defendants)**

For Applicant : Mr. Devesh Chandra Verma, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

05.04.2019

1. By the impugned order, plaintiff's application under Order 7 Rule 11 of the CPC has been rejected by the trial Court holding that the counter claim is bar by limitation, against which, this civil revision has been preferred.
2. Learned counsel for the applicant/plaintiff submits that trial Court is absolutely unjustified in rejecting application under Order 7 Rule 11 of the CPC.

3. I have heard learned counsel for the applicant and perused the records with utmost circumspection.
4. Defendants appeared in the suit on 03/11/2009 and 14/04/2014 and also filed written statements alongwith counter claim which has been claimed to be barred by limitation by the plaintiff by filing application under Order 7 Rule 11 of the CPC.
5. The question of limitation is a mixed question of law and fact which can be decided by framing an issue alongwith other issues, as such, same application under Order 7 Rule 11 has rightly not been entertained and rejected by the trial Court, there is no perversity/illegality in the impugned order.
6. Accordingly, civil revision is dismissed. Record of trial Court be sent back for concluding the trial expeditiously.

Sd/-

(Sanjay K Agrawal)
Judge

Pawan