

HIGH COURT OF CHHATTISGARH, BILASPUR

MA No. 71 of 2019

1. Shyamlal Patel, S/o - Set Ram Patel, Aged about - 66 years, R/o- Village - Hardi, Post Office – Kurud, Police Station and Tahsil- Arang, District - Raipur (C.G.)
2. Nanak Patel (Died) Through LRs Sita Bai Patel, D/o -Nanak Ram, W/o -Shyam Lal Patel, Aged about - 50 years, R/o - Village - Hardi, Post Office – Kurud, Police Station and Tahsil -Arang, District - Raipur (C.G.)
3. Jagat Patel, S/o -Kamta Patel, Aged about- 71 years, R/o- Village- Hardi, Post Office- Kurud, Police Station & Tahsil -Arang, District -Raipur (C.G.)
4. Bhagat Patel, S/o -Kamta Patel, Aged about -66 years, R/o- Village -Hardi, Post Office -Kurud, Police Station & Tahsil -Arang, District -Raipur (C.G.)

---- Appellants

Versus

1. Chhote Lal Sonkar, S/o - Sadaram Sonkar, Aged about -56 years, R/o - Village -Kusmunda, Post – Samoda, Tehsil -Arang, District- Raipur (C.G.)
2. State of Chhattisgarh, Through: Collector -Raipur, District -Raipur District - Raipur (C.G.)

---- Respondents

For Appellants : Shri A.D. Kuldeep, Advocate.

For State/Respondent No. 2 : Shri Ravish Verma, Govt. Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

17/07/2019

1. This appeal is preferred against the judgment dated 29th April, 2019 passed by 3rd Additional District Judge, Raipur (C.G.) in Civil Appeal No. 4-A/2013, wherein the said Court remitted back civil suit bearing No. 66-A/2012 for consideration whether the Court of Civil Judge, Class-II, Raipur (C.G.) is having pecuniary jurisdiction to proceed with the case and for providing time to respondent No. 1/plaintiff to make good the deficiency in the court-fees.

2. Suit was filed before the trial Court for declaration and permanent injunction, but it is found that it is case of specific performance of contract which ought to have been valued to Rs. 3,45,000/- which was agreed as cash consideration to sell of suit land. The trial Court rejected the plaint on the ground that the sufficient court-fees is not affixed with the plaint. The appellate Court opined that opportunity was to be provided to respondent No. 1 for making good the deficiency in the court-fees and again the trial Court ought to have considered whether it has pecuniary jurisdiction over the subject matter, that is why case is remitted back to trial Court.
3. Learned counsel for the appellants submits that trial Court is right in dismissing the suit, therefore, order of the learned appellate Court is not sustainable. Order 7 Rule 11(c) of CPC commands that plaint can be rejected if plaintiff for being required by the Court to supply the requisite stamp paper within a time fails to do so. In the present case, the trial Court did not require the respondent No. 1 to supply the requisite stamp paper, therefore, finding of the learned appellate Court is in conformity of the provisions of Order 7 Rule 11(c) of CPC which is not liable to be interfered with.
4. Accordingly, the instant appeal is liable to be and is hereby dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge