

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 846 of 2019

1. Satyanarayan Dewangan S/o Late Jeevrakhan Dewangan Aged About 66 Years
2. Laxmi Narayan Dewangan S/o Late Jeevrakhan Dewangan Aged About 63 Years
3. Trijugi Narayan Dewangan S/o Late Jeevrakhan Dewangan Aged About 61 Years
4. Vijay Narayan Dewangan S/o Late Jeevrakhan Dewangan Aged About 55 Years
5. Prabhu Narayan Dewangan S/o Late Jeevrakhan Dewangan Aged About 50 Years

(All are R/o Koshtapara Juna Bilaspur, Police Station - City Kotwali, Tahsil Civil And Revenue District - Bilaspur, Chhattisgarh. Mo. No. - 8349774236, 9893081683)

---- Petitioners

Versus

1. Shivnarayan Dewangan S/o Late Jeevrakhan Dewangan Aged About 70 Years R/o Koshtapara Juna Bilaspur, Police Station - City Kotwali, Tahsil Civil And Revenue District - Bilaspur, Chhattisgarh. At Present R/o Gayatri Mandir Compound Sakri, Police Station Sakri, Tahsil Takhatpur, District - Bilaspur, Chhattisgarh Mo. No. 8463870432
2. Ram Narayan Dewangan S/o Jeevrakhan Dewangan Aged About 72 Years R/o - C-26, 27, Mahaveer Nagar, Mungeli Road, Mangla Chowk Bilaspur, Police Station Civil Line, Tahsil, Civil And Revenue District - Bilaspur, Chhattisgarh
3. State Of Chhattisgarh Through - Collector, Bilaspur, Police Station - Civil Line, Tahsil, Civil And Revenue District - Bilaspur, Chhattisgarh

---- Respondents

For Petitioners	: Mr. Ratnesh Kumar Agrawal, Advocate.
For Respondent No.3	: Mr. Kapil Maini, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

19-11-2019

Heard.

1. This petition has been brought being aggrieved by the order dated 16.10.2019 passed by the trial Court in Civil Suit No.48-A/2019 by rejecting the application of the petitioners filed under Order 7 Rule 11 of C.P.C.
2. Learned counsel for petitioners submits that the trial Court has without reference to the provision under Court Fees Act held that the suit is properly valued, regarding which the prayer of the petitioners was not at all considered. Similarly, the other grounds mentioned in the application were also dismissed arbitrarily, therefore, prayed that the petition be admitted and allowed.
3. Learned counsel appearing on behalf of respondent No.3 makes formal objection.
4. On perusal of the copy of plaint, it is found that by the parties of the partition that the respondent No.1 had valued the property at Rs.10,000/- only without mentioning the basis of such valuation. Section 7(Vi-a) of Court Fees Act, 1870, it is an amendment brought by M.P. Act No.9 of 1953 which is applicable in the State of Chhattisgarh also, provides that in suits for partition, the valuation shall be according to one half of the value of the plaintiff's share of the property and further according to full value of such share, if on the date of presenting the plaint the plaintiff is out of possession of the property of which he claims to be a co-parcener or co-owner.
5. Therefore, there is a clear direction for valuation, in case, where relief of partition is claimed, which has been totally ignored by the trial Court while rejecting the prayer of the petitioners. Therefore, I am of this view that the trial Court has totally ignored the provision of law while disposing the application under Order 7 Rule 11 of C.P.C. Hence, the

petition is disposed off at motion stage. The impugned order is set aside and the application of petitioner under Order 7 Rule 11 of C.P.C. is restored. The trial Court is directed to reconsider on the application in the light of the provision which is mentioned in this order.

6. Accordingly, the petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Monika