

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 75 of 2019

1. Najmuddin S/o Khairuddin, Aged About 30 Years, Caste-Muslim, Occupation-Cultivator and seller of building material, R/o Village Saitanager Toli, Tahsil and District Jashpur Chhattisgarh, District : Jashpur, Chhattisgarh
2. Amruddin S/o Mohd Basir, Aged About 40 Years, Caste-Muslim, Occupation-Cultivator and seller of building material, R/o Village Saitanager Toli, Tahsil and District Jashpur Chhattisgarh, District : Jashpur, Chhattisgarh

---- Petitioners/Defendants 1 and 2

Versus

1. Nuresa Khatun W/o Late Samsuddin, Aged About 67 Years, Caste-Muslim, R/o Village- Saitanager Toli, Tahsil and District Jashpur Chhattisgarh, District : Jashpur, Chhattisgarh (Plaintiff)
2. Ahmed Ali S/o Late Sher Khaan, Aged About 65 Years, Caste-Muslim, Occupation-Business, R/o Village- Doranda, Kuraisi Muhalla, Ranchi-2 (Jharkhand), District : Ranchi, Jharkhand
3. Najrun Nisha W/o Mohd. Musa, Aged About 70 Years, Caste-Muslim, R/o Village- Doranda, Kuraisi Muhalla, Ranchi-2 (Jharkhand), District : Ranchi, Jharkhand
4. Mohd. Jamal S/o Late Makbul Quresi, Aged About 40 Years, Occupation-Business, Caste-Muslim, R/o Azad Basti, Gudri Chowk, Quresi Muhalla, Police Station Lower Bazar, Ranchi, District Ranchi (Jharkhand), District : Ranchi, Jharkhand
5. Mohd. Mukhtar S/o Late Mohd. Maqbul Quresi, Aged about 45 years, Caste-Muslim, R/o Azad Basti, Gudri Chowk, Quresi Muhalla, Police Station Lower Bazar, Ranchi, District Ranchi (Jharkhand), District : Ranchi, Jharkhand
6. Mohd. Gabbar S/o Late Mohd. Maqbul Quresi, Aged About 30 Years, Caste-Muslim, R/o Azad Basti, Gudri Chowk, Quresi Muhalla, Police Station Lower Bazar, Ranchi, District Ranchi (Jharkhand), District : Ranchi, Jharkhand
7. State of Chhattisgarh, through the Collector, Jashpur, District Jashpur Chhattisgarh, District : Jashpur, Chhattisgarh(Defendants)

---- Respondents

For Petitioners – Shri Gyan Prakash Shukla, Advocate on behalf of Shri Basant Dewangan, Advocate.

For Respondent No.3 – Shri Aman Kesharwani, Advocate on behalf of Shri A.K. Prasad, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

12-02-2020

Heard.

1. This petition has been brought being aggrieved by the order dated 06-11-2018 passed in Civil Suit No. 02-A/2017 by the trial Court dismissing the

application filed by the petitioners under Order 14 Rule 2 of the CPC.

2. It is submitted that on the basis of the pleadings made by the petitioners/defendants 1 and 2 in this case one issue was framed that whether the suit property has been valued properly and the court fees has been paid accordingly. The petitioners then filed an application praying to decide this issue as preliminary issue invoking the provisions under Order 14 Rule 2 (b) of the CPC, the learned trial Court has erroneously rejected this prayer by the impugned order.

3. It is submitted that according to the provisions in the Court Fees Act and also according to the statement made by respondent No.1/plaintiff in her plaint it is clearly made out that the present value of the suit property is sufficiently enhanced, therefore, the suit property should have been valued in accordance with the present market value and the court fees should have paid accordingly, hence, it is prayed that the orders be passed for interference in the impugned order.

4. Learned counsel for the respondent No.3 opposes the submission.

5. What has been pleaded by the petitioners/defendants 1 and 2 in defence in written statement, that has not been admitted from the plaintiff/respondent No.1 side, therefore, this statement is disputed and whatever statement is disputed that is required to be determined in the trial on the basis of the evidence that may be produced by the parties. Therefore, it is not a pure question of law and this being mixed question of law and facts it cannot be decided at preliminary stage. Therefore, I am of this view that the trial Court has not committed any error in passing the impugned order.

6. Therefore, the petition is dismissed at the motion stage. The petitioners have liberty to file objection before the trial Court if law permits for the same.

Sd/-

(Rajendra Chandra Singh Samant)
Judge