

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 11 of 2012**

H.P. Bathri, Aged 65 years, S/o Shri M.S.Bathri,
Resident Engineer R/o Podhibahar Korba, Tahsil
and Distt. Korba, Chhattisgarh.

---Appellant/Plaintiff

Versus

- 1.D. Paswan, D.T.L. Gilkan Scape (J.V.) Bilaspur,
Chhattisgarh.
- 2.Senior Team Leader, Gilkan Scapes (J.V.) Vishal
Tali Bahanda, Raipur, Chhattisgarh.
- 3.Chief Executive Officer, Rural Road Development
Agency, Civil Line Raipur, Distt. Raipur,
Chhattisgarh.
- 4.C.G. Govt., Through Collector, Korba, Distt.
Korba, Chhattisgarh.
- 5.Executive Engineer Prime Minister Gram Sarakh
Yojana Korba, Near Tahsil Office Korba, Distt.
Korba, Chhattisgarh.

--- Respondents/Defendants

For Appellant :- Mr. S.V. Purohit, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

24/02/2021

1. Heard on admission and formulation of
substantial question of law in this second

appeal preferred by the appellant/plaintiff under Section 100 of CPC against the impugned judgment and decree passed by the first appellate Court affirming the order passed by the trial Court dismissing the suit invoking Order 7 Rule 11 of CPC.

2. Mr. S.V. Purohit, learned counsel for the appellant/plaintiff, would submit that both the Courts below have concurrently erred in dismissing the suit of the plaintiff invoking Order 7 Rule 11 of CPC, as such, the appeal be admitted by formulating substantial question of law in this regard.

3. The sole plaintiff filed a suit for declaration and permanent injunction stating inter alia that the order passed by defendant No. 1 (Company) on 01/04/2010 is illegal and bad in law and he is entitled to continue service with the defendant (company).

4. Learned trial Court, by order dated 14/09/2010, dismissed the suit invoking Order 7 Rule 11 of CPC holding that the dispute between the parties relates to industrial dispute and as such, civil Court has no jurisdiction to entertain plaintiff's suit, which was also affirmed by the

first appellate Court in the appeal preferred by the appellant/plaintiff wherein learned first appellate Court dismissed the appeal by impugned judgment and decree dated 09/09/2011.

5. Both the Courts below have concurrently held that the dispute between the parties, being industrial in nature, a civil suit is not maintainable for the same and the order of termination dated 01/04/2010 passed by the defendant (company) is also not illegal. The aforesaid finding recorded by both the Courts below is a finding of fact based on evidence available on record which is neither perverse nor contrary to the record and does not involve any substantial question of law for determination.

6. The second appeal, being devoid of merits, deserves to be and is accordingly dismissed in limine without notice to the other side. However, plaintiff is at liberty to approach the Labour Court for redressal of his grievance in accordance with law.

Sd/-
(Sanjay K. Agrawal)
Judge