

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 95 of 2019

- Rajesh Kumar Jain S/o Shri Hukumchand Jain, Aged About 50 Years, Present Residing at D/106 Shailendra Nagar Raipur, Tehsil- Raipur, District- Raipur, Chhattisgarh, Tehsil Raipur District Raipur, Chhattisgarh. Permanent Resident of Ward No.8, Bakdhi Marg Khairagarh, P.S. Khairagarh, Tehsil- Khairagarh, District Rajnandgaon, Chhattisgarh. **(Defendant No.1)**, District : Rajnandgaon, Chhattisgarh

---- Petitioner

Versus

1. Atmaram S/o Late Samaydas Satnami, Aged About 67 Years, R/o Village Amlidihkhurd, Ward No.15 Khairagarh, P.S. and Tehsil- Khairagarh, District- Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh
2. Tijanbai D/o Late Samayadas Satnami, Aged About 72 Years, R/o Village Amlidihkhurd, Ward No.15 Khairagarh, P.S. and Tehsil- Khairagarh, District- Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh
3. Kejibai D/o Late Samaydas Satnami, Aged About 70 Years, R/o Village Amlidihkhurd, Ward No.15 Khairagarh, P.S. and Tehsil- Khairagarh, District - Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh **(Plaintiffs)**
4. State of Chhattisgarh, through the Collector Rajnandgaon, District - Rajnandgaon, Chhattisgarh. **(Defendant No. 2)**, District : Rajnandgaon, Chhattisgarh

----Respondents

For Petitioner – Shri Rakesh Pandey, Advocate.

For Respondents No.1 to 3 – Shri F.S. Khare, Advocate.

For State/Respondent No.4 – Shri Alok Nigam, Govt. Advocate.

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

09-06-2021

Heard.

1. This petition has been brought under Article 227 of the Constitution of India being aggrieved by the order dated 05-01-2019 passed by the Additional District Judge Khairagarh dismissing the application filed by the petitioner under Order 7 Rule 11 read with Section 151 of the CPC.
2. It is submitted that the private respondents have filed a civil suit against the petitioner seeking declaration with respect to the registered sale deed dated 22-06-2015. The petitioner raised objection in the application filed under

Order 7 Rule 11 of the CPC, that the suit should be valued at the value of the sale deed, instead of that, the respondents/plaintiffs have valued their suit at only Rs.15,000/- This application was opposed by the respondents side and learned trial Court has passed the impugned order rejecting this application. It is submitted that it is a clear case in which there is discrepancy in the pleading regarding valuation of the court fees, which should have been considered and the application should have been decided in favour of the petitioner.

3. Learned counsel for respondents 1 to 3 concedes that the respondents be given opportunity to present court fees before the trial Court and the case be remanded. It is also submitted by the counsel for private respondents that these respondents may also be given liberty to file application to pursue the suit as indigent persons.

4. After considering on the submissions, the petition is allowed and disposed off at motion stage. The impugned order is set aside. The trial Court is directed to give opportunity to respondents No.1 to 3/plaintiffs to make suitable valuation in their plaint and present court fees for the same in accordance with law. There is no requirement for granting liberty to file application to pursue the suit as indigent person, because it is entitlement of indigent person to file such application under the concerned law.

5. The petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge