

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.241 of 2021

1. Puni Bai W/o Late Shri Gopi Sahu Aged About 48 Years
2. Lok Nath Sahu S/o Late Shri Gopi Sahu Aged About 20 Years
(Both are r/o Nawagarh, Tahsil-Nawagarh, Distict- Janjgir- Champa, Chhattisgarh)

---- Petitioners

Versus

- Chandu Lal Sahu S/o Late Lochan Prasad Sahu Aged About 73 Years
R/o Nawagarh, Tahsil-Nawagarh, Distict- Janjgir- Champa, Chhattisgarh

---- Respondent

For Petitioners : Dr. N.K. Chatterjee, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

08/04/2021

Heard.

1. This petition has been brought being aggrieved by the order dated 27.02.2021 passed by the First Additional District Judge, Janjgir- Champa in Miscellaneous Civil Appeal No.04/2020, dismissing the appeal filed by the petitioners. The petitioners had filed an application under Order 7 Rule 11 of C.P.C. before the Trial Court on this ground that the respondent has not properly valued the Civil Suit, as the value of the suit property is about Rs.7,00,000/- and, therefore, the case was not within the pecuniary jurisdiction of the trial Court. The learned trial Court has dismissed this application vide order dated 20.12.2019. The Miscellaneous Civil Appeal filed against this order has also been dismissed by the appellate Court.
2. It is submitted by the learned counsel for the petitioners that the

respondent has claimed possession over the suit property from the petitioners/defendants, therefore, there was requirement of the proper valuation of the suit property and also requirement for payment of proper Court fees. If the Civil Suit is properly valued, in that case, the trial Court will have no jurisdiction to try the case, hence, the impugned order and the order passed by the trial Court both are erroneous. Hence, it is prayed that this petition may be admitted for final hearing.

3. Considered on the submissions. On perusal of the copy of the plaint filed by the respondent, it is found that the respondent has pleaded for valuation of the Civil Suit. The prayer of the petitioners in their application under Order 7 Rule 11 of C.P.C. is that the value of the suit property is about Rs.7,00,000/- is not a statement made in the plaint. It is clearly settled that it is only the pleadings in the plaint, which can be taken into consideration for rejecting a plaint under Order 7 Rule 11 of C.P.C. In fact, the statement that has been made by the petitioners in their application is a statement of defence, hence, they are at liberty to raise such defence in their written statement and that is not a subject matter to be raised and entertained in an application under Order 7 Rule 11 of C.P.C. Therefore, I do not find any merit in this petition, which is dismissed and disposed off at the motion stage.

4. Accordingly, the petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge