

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR No. 88 of 2018

1. Jaiman Lal Chandrakar (Jassu) S/o Shri Ganeshram Chandrakar Aged About 43 Years R/o Village And Post Bharegaon, Tahsil And District Rajnandgaon Chhattisgarh. (Defendent No. 1)

---- Petitioner

Versus

1. Neelmani Chandrakar S/o Late Shri Shatruhan Sing Chandrakar, Aged About 50 Years R/o Village No. 26, R/o Behind Bunkar Singh, Santrabadi, Durg, Tahsil And District Durg Chhattisgarh. Mob. No. 9098876878 (Plaintiff)
2. State Of Chhattisgarh, Through The Collector, Rajnandgaon, District Rajnandgaon Chhattisgarh. (Defendant No. 2)

---- Respondents

For the Petitioner	:	Shri Rajnish Singh Baghel, Advocate.
For Respondent No.1	:	Shri Rakesh Kumar Thakur, Advocate.
For Respondent No.2/State	:	Shri Alok Nigam, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

21.09.2021

Heard.

1. This revision has been brought being aggrieved by the order dated 20.4.2018 passed by the learned Second Civil Judge, Class-II, Rajnandgaon, Chhattisgarh in Civil Suit No. 33A of 2017, by which the application filed by the petitioner under Order VII Rule 11 of the CPC was dismissed.
2. It is submitted by counsel for the petitioner that respondent No.1 has filed a civil suit praying for relief of specific performance of contract and possession for which the suit has been valued at Rs.5,00,000/- and the Court fees has been paid accordingly. The petitioner/ defendant has filed an application under Order VII Rule 11 of the CPC praying that the suit had to be valued according to the market price of the suit property

and secondly, the terms of the agreement to sale were uncertain because of which, the agreement between respondent No.1 and the petitioner is void according to Section 29 of the Contract Act, 1872, therefore, the application under Order VII Rule 11 was fit to be allowed and the plaint was required to be rejected. Hence, the impugned order is illegal, arbitrary and unsustainable.

3. Learned counsel for respondent No.1 opposes the submissions and submits that the Court fees has been paid according to the valuation made by the plaintiff in his plaint and the valuation was made in accordance with the value mentioned in the agreement. Therefore, on plain reading of the averments in the plaint, it can be said that the suit has been valued properly and the court fees has been paid accordingly. The impugned order does not suffer from any infirmity, which is sustainable.
4. Heard counsel for both the parties and perused the documents present on record.
5. Considered on the submissions. While considering the application under Order VII Rule 11 of the CPC, the Court has to consider on such prayer only on the basis of the pleadings made in the plaint alone and if it is found on such consideration that the civil suit cannot continue on account of one of the grounds as mentioned under Order VII Rule 11 of the CPC, then the plaint has to be rejected. In this case, the averment or submission of the defendant, is not the part of the pleading, which amounts to a dispute raised by the defendant. The grounds taken in the application under Order VII Rule 11 of the CPC, that the suit was to be valued according to the market value of the suit property is a ground in defence and the same is not pleaded in the plaint. Similarly, the other ground that the agreement between the parties is hit by Section 29 of

the Indian Contract Act, 1872 is also a dispute raised by the petitioner, which may be a ground for his defence and the same can be pleaded by him in his written statement. Therefore, on the plain reading of the plaint there is no such ground on the basis of which, the same could have been rejected under the provisions of Order VII Rule 11 of the CPC. Hence, I do not find any error in the impugned order and the petition is dismissed and disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi