

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURFA No. 478 of 2018

- Meghashyam Kashyap S/o Shri Jhumuk Lal Kashyap Aged About 70 Years R/o Village Medesara, Police Station And Tahsil- Dhamdha, Civil And Revenue District- Durg, Chhattisgarh.

---- appellant

Versus

1. Ramakant Kashyap S/o Late Narayan Singh Aged About 47 Years R/o Village- Medesara, Police Station And Tahsil-Dhamadha, Civil And Revenue District- Durg, Chhattisgarh., District : Durg, Chhattisgarh
2. Ram Hari @ Ram Khilawan S/o Late Narayan Singh Aged About 50 Years R/o Village- Medesara, Police Station And Tahsil-Dhamadha, Civil And Revenue District- Durg, Chhattisgarh., District : Durg, Chhattisgarh
3. Dr. Gajendra Singh Suman S/o Shri Churaman Singh Lodhi Aged About 68 Years R/o Village Dhamdha, Police Station And Tahsil-Dhamadha, Civil And Revenue District- Durg, Chhattisgarh., District : Durg, Chhattisgarh
4. Tulasi S/o Shri Churaman Singh Aged About 70 Years R/o Village- Medesara, Police Station And Tahsil- Dhamadha, Civil And Revenue District- Durg, Chhattisgarh., District : Durg, Chhattisgarh
5. State Of Chhattisgarh Through The District Collector, Durg, Civil And Revenue District- Durg, Chhattisgarh.

---- Respondent

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- Mr. Paras Mani Shriwas, counsel for the appellant.
 - Mr. Bharat Rajpoot, counsel for the respondents No. 1 to 4.
 - Mr. Lalit Jangde, Dy. GA for the State/respondent No. 5.
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D.B.: Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Vimla Singh Kapoor****Order on Board****Per Manindra Mohan Shrivastava, J.****18.08.2021**

Heard.

With the consent of the parties this appeal is heard finally.

This appeal arises out of impugned judgment and decree dated 04.04.2018 by which the plaint has been rejected under Order 7 Rule 11 as barred by law.

Learned counsel for the appellant would argue that earlier suit was filed before the Court of Civil Judge where it was dismissed for non compliance of the orders but subsequently, the suit was brought before the Court of higher pecuniary jurisdiction i.e. Additional District Judge on a particular valuation therefore, in such a case the subsequent suit filed before another Court of higher pecuniary jurisdiction could not be dismissed under Order 7 Rule 11.

The argument of learned counsel for the appellant is misconceived in law. The cause of action had remained the same. Merely because the appellant changed the valuation of the suit and filed it before another Court, the provisions of Order 9 Rule 9 CPC would not be rendered inapplicable.

The appeal has no merits therefore, dismissed.

Decree be drawn accordingly.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Vimla Singh Kapoor)
Judge