

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.470 of 2021

1. Pokhan Lal S/o Shri Bhushan Lal Chandrakar Aged About 50 Years R/o Village Ganjar, Tahsil Bagbahra, District Mahasamund Chhattisgarh
2. Neelam W/o Manoj Kumar Chandrakar Aged About 35 Years R/o Village Ganjar, Tahsil Bagbahra, District Mahasamund Chhattisgarh
3. Manoj Kumar S/o Shri Tribhuvan Chandrakar Aged About 38 Years R/o Village Ganjar, Tahsil Bagbahra, District Mahasamund Chhattisgarh

---- Petitioners

Versus

1. Ashok Kumar S/o Shri Jeevrakhan Chandrakar Aged About 62 Years R/o Village Ganjar, Tahsil Bagbahra, District Mahasamund Chhattisgarh
2. The State Of Chhattisgarh Through Collector, District Mahasamund Chhattisgarh

---- Respondent

For Petitioners	– Mr. Kshitij Sharma, Advocate.
For State/respondent No.2	– Mrs. Hamida Siddiqui, Dy. A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

16-09-2021

Heard.

1. This petition has been brought being aggrieved by the order dated 04.08.2021 passed by the Court of First Civil Judge, Class-II, Mahasamund, C.G. in Civil Suit No.33-A/2019.
2. It is submitted that the respondent No.1 has filed a Civil Suit praying for relief of specific performance of contract and also for declaration that the sale deed executed in favour of the petitioner is null and void. The

petitioner, who is defendant in that suit has by filing the written statement pleaded challenging the valuation of the suit. On which basis, one issue was framed by the trial Court on the point of valuation of the civil suit. The respondent No.1 filed an application for amendment in the issues which has been decided by the impugned order and the issues have been re-casted in which the learned trial Court has held that the Court has vide order dated 13.12.2019 decided that the proper Court fee has been affixed on the basis of the valuation made, therefore, the framing of issue on the point of valuation is not necessary and no such issue was framed on the point of valuation. It is submitted that the petitioner has grievance for the reason that the Civil Suit has been brought on the basis of oral agreement for sale. The order dated 13.12.2019 was passed only on the basis of the plaint averments, whereas the issue on the point of limitation was framed subsequently on 06.02.2020, therefore, the issue on the point of valuation was necessary according to the pleading present in the written statement. The deletion of the same by the impugned order is erroneous and illegal, therefore, the prayer has been made for passing appropriate order.

3. Considered on the submissions. On perusal of the impugned order, it is found that a reference has been made to the order dated 13.12.2019 in which the Court had expressed satisfaction that the Court fees has been paid according to the valuation made. It is the valuation of the Civil Suit which has been challenged by the petitioner/defendant in his written statement. Therefore, the valuation as pleaded by the respondent No.1 has been disputed and whenever there is a dispute an issue has to be framed in that regard. The earlier order for framing issue on the point of valuation was a correct order, whereas the subsequent order which is impugned for deleting the issue of valuation is incorrect. Hence, the petition is disposed off at the motion stage. The impugned order so far it

relates to deletion of the issue on point of valuation is set aside.

4. Learned trial Court is directed to frame an additional issue on the point as to whether the valuation of the Civil Suit is proper, on the basis of the pleadings made by the petitioner/defendant and proceed with the trial in the suit in accordance with law.
5. Accordingly, this petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Monika