

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****CR No. 75 of 2019**

- Ras Bihari Das S/o Late Markand Das Aged About 72 Years Occupation - Translator, R/o J - 78, Sector - 2, Shanker Nagar Raipur District - Raipur Chhattisgarh.

**----- Petitioner****Versus**

- Chief Election Officer, Office - Chief Election Officer, Chhattisgarh, Shastri Chowk, Old Mantralaya Parisar, Raipur Chhattisgarh.

**----- Respondent**


---

For Petitioner : Ms. Aditi Singhavi, Advocate.  
For Respondent : Mr. Sanjay Patel, Advocate.

---

**Hon'ble Shri Deepak Kumar Tiwari, J****Order On Board****25/10/2021 :**

1. The petitioner has filed Civil Suit on 15.12.2016 for the translation work performed by him, for which as per the pleading out of his claim of Rs. 22,000/-, only 7100/ was paid and for the remaining amount of Rs.14,900/- he made a representation to the department on 14.09.2011. However, no payment was released, therefore, the learned First Appellate Court in view of such averment pleaded by the petitioner himself came to the conclusion that the suit was not preferred within 3 years per Section 18 of the Limitation Act 1963 (hereinafter referred to as 'Act'). According to Section 18 of the Act, for the price of work done by the plaintiff for the defendant at his request, where no time has been fixed for payment, three years period of limitation begins to run

when the work is done. Further as per Section 3 of the Act, the suit instituted after the prescribed period shall be dismissed although limitation has not been set up as a defence. The trial Court dismissed the suit on merit and the first Appellate Court has also affirmed it, then such findings cannot be interfered invoking revisional jurisdiction. Otherwise also this Court is of the view that such a revision is not tenable when Second Appeal is barred under Section 102 of Code of Civil Procedure.

2. A revision is provided under Section 115 CPC. Section 115 reads thus:-

**115. Revision.**— [(1)] The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate court appears—

a) to have exercised a jurisdiction not vested in it by law, or

b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit:

Provided that the High Court shall not, under this section, vary or reverse any order made, or any order deciding an issue, in the course of a suit or other proceeding, except where the order, if it had been made in favour of the party applying for revision, would have finally disposed of the suit or other proceedings.

(2) **The High Court shall not, under this section, vary or reverse any decree or order against which an appeal lies either to the High Court or to any Court subordinate thereto.**

(3) A revision shall not operate as a stay of suit or other proceeding before the Court except where such

suit or other proceeding is stayed by the High Court.

*Explanation.— In this section, the expression “any case which has been decided” includes any order made, or any order deciding an issue, in the course of a suit or other proceeding.”*

3. Section 102 of Code of Civil Procedure, 1908, reads as under ;

**“No second appeal in certain cases.—**No second appeal shall lie from any decree, when the subject-matter of the original suit is for recovery of money not exceeding twenty-five thousand rupees.”

4. In the matter of **Nagar Palika Thakurdwara v. Khalil Ahmed**, {(2016) 9 SCC 397} it was observed thus :

**“14.** The purpose behind enactment of Section 102 CPC is to reduce the quantum of litigation so that courts may not have to waste time where the stakes are very meagre and not of much consequence.....”

5. Therefore, looking to the purpose of the enactment of Section 102 C.P.C. as it was explicit by the Apex Court, no second appeal shall lie from any decree, when the subject matter of the original suit is for recovery of money not exceeding twenty five thousand rupees. If the cases of this nature are allowed to be entertained under Section 115 C.P.C., it would amount to eclipsing Section 102 C.P.C., which aims the curtailment of Second Appeal, in the sense, prolonged litigation. Where the subject matter is less than Rs.25,000/-, the High Court invoking Section 115 C.P.C., if maintains the revision, it would amount to second appeal under the label of Civil Revision Petition, thereby allowing the parties to file second appeal, indirectly, ignoring Section 102, thereby defeating the intention of the legislature, which should not be allowed.

6. In this view of the matter, I am of the considered opinion that the

present Revision petition under Section 115 of the CPC is not maintainable. It is accordingly dismissed.

Sd/-  
(Deepak Kumar Tiwari)  
**Judge**

Barve