

**HIGH COURT OF CHHATTISGARH, BILASPUR****CR No. 51 of 2023**

Ramsiroman S/o Late Narigan Aged About 52 Years R/o Village Khadgava, Police Sub-Station Basdei, P.S. Surajpur, Tahsil Bhaiyathan, District- Surajpur Chhattisgarh. (Defendant No.1)

---- Applicant**Versus**

1. Ramdular S/o Late Nagina Prasad Aged About 55 Years Residents of Village Khadgava, Police Sub-Station Basdei, P.S. Surajpur, Tahsil Bhaiyathan, District - Surajpur Chhattisgarh. (Plaintiff No. 1)
2. Devnarayan S/o Late Nagina Prasad Aged About 50 Years Residents Of Village Khadgava, Police Sub-Station Basdei, P.S. Surajpur, Tahsil Bhaiyathan, District - Surajpur Chhattisgarh. (Plaintiff No. 2)
3. Rajesh S/o Late Ramnarayan Aged About 35 Years Residents Of Village Khadgava, Police Sub-Station Basdei, P.S. Surajpur, Tahsil Bhaiyathan, District - Surajpur Chhattisgarh. (Plaintiff No 3)
4. Shanti W/o Late Ramnarayan Aged About 55 Years Residents Of Village Khadgava, Police Sub-Station Basdei, P.S. Surajpur, Tahsil Bhaiyathan, District - Surajpur Chhattisgarh. (Plaintiff No. 4)
5. Ramkumari W/o Late Narigan Aged About 70 Years Residents Of Village Khadgava, Police Sub-Station Basdei, P.S. Surajpur, Tahsil Bhaiyathan, District - Surajpur Chhattisgarh. (Def. No 2)
6. State of Chhattisgarh Through Collector, District- Surajpur Chhattisgarh

---- Respondents

For the Applicant

Ms. Sakshi Bali, Advocate

For the Respondents

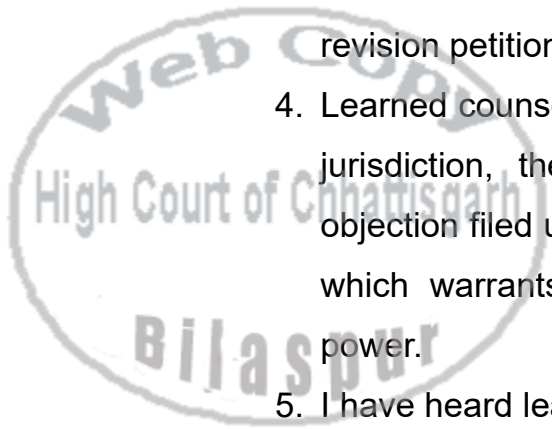
Mr. R.M.Solapurkar, GA

Hon'ble Shri Justice Narendra Kumar Vyas**Order on Board****02.05.2023.**

1. This revision has been preferred by Defendant No.1 under Section 115 of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'CPC'), questioning the legality and propriety of the order dated 14.03.2023, passed by 4th Civil Judge, Class- I, Surajpur in Civil Suit No. 67-A/2018, whereby, the learned trial Court has rejected the application filed under Order 7 Rule 11 of CPC.



2. Facts of the case is that the plaintiff has filed the civil suit for declaration that the order passed by the Tahsildar, Bhaiyathan in Revenue Case No. 7A-6/2014-15 be kindly quashed and the plaintiff be declared title holder of Kharasa No. 1422/1 new No. is 794 and other relief for possession also.
3. Learned counsel for the applicant would submit that they have raised objection about maintainability of the suit in terms order 7 Rule 11 CPC, mainly contending that the plaintiff has filed the suit alleging that there is mistake in the map which according to the defendant is not a subject matter of Civil Suit as it has to be decided by the Collector, therefore, the suit is not maintainable. The present application is rejected by the trial Court. This order is being assailed by defendant in the instant revision petition.
4. Learned counsel for the defendant would submit that Civil Court has no jurisdiction, therefore, the trial Court should have considered the objection filed under order 7 Rule 11 CPC and thus committed illegality which warrants interference by this Court in exercise its revisional power.
5. I have heard learned counsel for the applicants and perused the record.
6. From the pleading made by the plaintiff and also the application submitted by the defendant, it is quite vivid, that the plaintiff has claimed for declaration and possession wherein the defendants has raised certain objection/defences, it is well settled legal position of law that while deciding application under Order 7 Rule 11 CPC, the trial Court has to see only pleading made in the plaint not in defence taken in the written statement or in the application filed under Order 7 Rule 11 CPC.
7. From perusal of the application filed by the present applicant, it is clear that the objection about the maintainability of the case which cannot be adjudicated while deciding the application filed under Order 7 Rule 11 CPC as it requires examination of facts, evidence and law, I do not find any infirmity in the impugned order which call for interference in this revision petition.





8. However, the applicant is at liberty to raise all his objection in the written submission which will be decided by the trial Court in accordance with the law in a proper proceedings before it.
9. With this observation, the Civil revision is dismissed at the admission stage itself.

Sd/-
(Narendra Kumar Vyas)
Judge

Santosh

