

IN THE HIGH COURT OF JHARKHAND AT RANCHI
C.M.P. No.899 of 2024

Lagni Mundain, wife of Sri Arjun Munda, aged about 75 years,
resident of village Hatma, P.O. & P.S. Lalpur, District Ranchi.

..... ... **Petitioner**

Versus

1. Ratan Kumari Surana wife of Sri Abhay Singh Surana, resident of 3A, Mangoe Lane, P.O. GPO, P.S. Hare Street, District Kolkata-700001, West Bengal.
2. Rajesh Kumar Jain, son of Late Ratan Chand Khiwasara, resident of 3A, Mangoe Lane, P.O. GPO, P.S. Hare Street, District Kolkata-700001, West Bengal.
3. Jayshree Kothari wife of Sri Devendra Singh Kothari, resident of 2/1, Beltalla Road, P.O. Bhowanipore & P.S. Bhowanipore, District Kolkata -700026, West Bengal.
4. Babita Singh wife of Sri Sangram Singh Munda, resident of North Office Para, P.O. & P.S. Doranda, District Ranchi 834002.
5. Navin Tirkey son of Chamra Tirkey, resident of Village- Sithiyo, House No.69, Singhpur Katari Toli, P.O. Sithio, P.S. Dhurwa, District Ranchi 834004.
6. Rima Munda wife of Late Santosh Munda, resident of North Office Para, P.O. & P.S. Doranda, District Ranchi 834002.
7. Mohit Kumar Munda, son of Late Man Singh Munda, resident of North Office Para, P.O. & P.S. Doranda, District Ranchi 834002.
8. Rohit Kumar Munda son of Late Man Singh Munda, resident of North Office Para, P.O. & P.S. Doranda, District Ranchi 834002.
9. Padmalochan Singh son of Rama Singh resident of village Gutuwa, P.O. Lalgutuwa, P.S. Ratu, District Ranchi 835303.
10. Jiwanti Toppo, daughter of Jai Ram Oraon, resident of village Gutuwa, P.O. Lalgutuwa, P.S. Ratu, District Ranchi 835303.
11. Salgi Oraon, wife of Somra Oraon resident of village Gutuwa, P.O. Lalgutuwa, P.S. Ratu, District Ranchi 835303.
12. Ajay Oraon, son of Charo Oraon resident of village Gutuwa, P.O. Lalgutuwa, P.S. Ratu, District Ranchi 835303.
13. Sukra Tirkey son of Donda Tirkey, resident of village Gutuwa, P.O. Lalgutuwa, P.S. Ratu, District Ranchi 835303.
14. The Deputy Commissioner, Ranchi, P.O. GPO, P.S. Kotwali, District Ranchi.

.... **Opp. Parties**

CORAM : HON'BLE MR. JUSTICE SUBHASH CHAND

For the Petitioner : Mr. Shashank Shekhar, Advocate
For the O.P. Nos.1-3 : Mr. Rahul Kumar Gupta, Advocate
Mr. Surya Prakash, Advocate

02/14th November, 2024

1. By way of present civil miscellaneous petition, the petitioner

prays for quashing of order dated 25th July, 2024 passed by the learned Civil Judge (Senior Division)-I, Ranchi in MCA No.647 of 2024 arising out of Original Suit No.388 of 2023, whereby and whereunder the application filed by the defendant under Order VII Rule 11(b) of the C.P.C. has been rejected.

2. Learned counsel for the petitioner has submitted that the Original Suit No.628 of 2015 (renumbered as O.S. 388 of 2023) was instituted on behalf of the plaintiffs (O.P. Nos.1, 2 and 3 herein) against the defendants including the petitioners in the Court of Civil Judge (Senior Division)-I, Ranchi for the purpose of pecuniary jurisdiction of the Court, the value of the suit was valued at Rs. 5 lacs.
3. On behalf of the petitioners/defendants, an application was given under Order VII Rule 11 (b) of the Civil Procedure Code before the court concerned and same has been rejected by the court concerned on the ground that issue could be decided by the Court by framing the issue whether the suit is undervalued or not. It has been further submitted that the court of learned Civil Judge (Senior Division)-I was not empowered to decide the application itself because the valuation of the suit being up to Rs.5 lacs for the same the very application should have been disposed of by the learned Court of Munsif. Learned counsel for the petitioner also relied upon the case law of Hon'ble Apex Court reported in AIR 2008 SC 1315.
4. Learned counsel for the Opposite Part Nos.1 to 3 opposed the contentions made by the learned counsel for the petitioner and contended that in the application of the petitioner filed under Order VII Rule 11(b) of the CPC, it has been pleaded that the valuation of the suit property was much above Rs.5 lacs as shown in the plaint itself taking into consideration the averment made in the application under Order VII Rule 11(b) of the CPC. The learned trial court has rightly rejected the application on the ground that this question could have been decided only after framing the issue in regard to the suit being under valued

or not. It has also been further submitted that the Original suit was filed in the year 2015 and at that time, the suit was also under the pecuniary jurisdiction of the court of the learned Civil Judge (Senior Division). Subsequently, during pendency of the very suit, the jurisdiction of the court of Munsif was enhanced from Rs.50,000/- to Rs.5 lacs. As such the learned Civil Judge (Senior Division) has to decide the very suit itself, since, the learned Civil Judge (Senior Division) having unlimited pecuniary jurisdiction.

5. Admittedly, the Original (Title) Suit No.628 of 2015 was instituted on behalf of the plaintiffs Smt. Ratan Kumari Surana and two others against Babita Singh and others on 26th November, 2015. The copy of the plaint is Annexure-I of this civil miscellaneous petition. In this plaint, the suit is valued at Rs.5 lacs in view of paragraph 47 of the plaint.
6. The petitioner/defendant had also filed the written statement which is Annexure-II. In the written statement also in paragraph 73 of the written statement, the defendant had raised the plea that the suit is undervalued as the present value of the suit is Rs.50 lacs.
7. The defendant/ petitioner herein has also filed an application under Order VII Rule 11(b) of the CPC which is Annexure-III of this civil miscellaneous petition. This application has been filed by the defendants/petitioners with these averments that the instant suit was at the stage of evidence and the plaintiffs have misinformed in regard to value of the suit property. The plaintiffs has valued the suit at Rs.5 lacs. The defendant no.2 has obtained the circle rate fixed by the Government of Jharkhand and from bare perusal of the same, it is found that the valuation of the suit property was much above as valued by the plaintiffs. In view of these averments prayed to reject the plaint.
8. Against this application, the rejoinder was also filed on behalf of the plaintiffs which is Annexure-IV of this civil miscellaneous

petition.

9. The learned counsel for the petitioner has submitted that the learned trial court was not empowered to decide the application under Order VII Rule 11(b) of the CPC and it was court of Munsif who could have decide the application. This very submission made by the learned counsel for the petitioner is not found tenable reason being that the plea raised in this application under Order VII Rule 11(b) of the CPC is that the plaintiffs has undervalued the suit while the valuation of the property in suit is much above Rs.5 lacs at which the suit was valued.
10. It is pertinent to mention herein that when the Original (Title) Suit No.628 of 2015 was instituted on behalf of the plaintiffs, at that time, the pecuniary jurisdiction of the court of Munsif was Rs.50,000/- and in the year 2019 by way of Amendment as the Bengal, Agra and Assam Civil Courts (Jharkhand Amendment) Act, 2018, the jurisdiction of Munsif was enhanced from Rs.50,000/- to Rs.5 lacs. This application was filed on behalf of the petitioners/defendants under Order VII Rule 11(b) of the CPC in the year 2024.
11. The learned court of Civil Judge (Senior Division)-I while rejecting the application has recorded the reason that whether the suit is undervalued or not, the same could have been decided after framing the issue to that effect and the plaint cannot be rejected on this mere averment made in the application itself.
12. **The court of Civil Judge (Senior Division) who is having the unlimited pecuniary jurisdiction, even if, decides the suit of value which is up to Rs.5 lacs or below the 5 lacs, the same cannot be accepted as an illegality. The court of Civil Judge (Senior Division) was empowered even the very suit which is of lesser value, since, on behalf of the petitioners/defendants, this plea was never raised in the application under Order VII Rule 11(b) of the CPC**

that the court of Civil Judge (Senior Division) has exceeded the pecuniary jurisdiction. The very issue which was raised in the application under Order VII Rule 11(b) of the CPC whether the suit was barred by the provision of Order VII Rule 11(b) of the CPC could have been decided only by framing the issue by the learned trial court whether the suit is undervalued or not and if after disposal of value of the suit, the court comes to the conclusion that the suit has been undervalued and the valuation of the suit is much above which was fixed by the plaintiffs themselves and for the same the court could have directed to amend the plaint and also to deposit the deficient court fee and if the same was not so then the provision of Order VII Rule 11(b) would have hit. The plea raised by the learned counsel for the petitioners that the court of Civil Judge (Senior Division) was not empowered to decide the application under Order VII Rule 11(b) of the CPC is not found tenable, on this ground that the jurisdiction of Munsif being up to Rs.5 lacs.

13. The learned counsel for the petitioner has relied the judgment of Hon'ble Apex Court passed in the case of ***Chief Engineer, Hydel Project & Ors. vs. Ravinder Nath & Ors.*** reported in ***AIR 2008 SC 1315***, wherein it has been held that once the original decree itself has been held to be without jurisdiction and hit by the doctrine of '*coram non judice*', there would be no question of upholding the same merely on the ground that the objection to the jurisdiction was not taken at the initial stage.
14. The benefit of this case law cannot be given to the learned counsel for the petitioner, reason being in the case in hand when the original suit was filed on behalf of the plaintiffs at that time, the learned court of Civil Judge (Senior Division) was having the pecuniary jurisdiction to entertain the suit and in that suit the written statement was also filed and after passing

of the amendment act in regard to exercising the pecuniary jurisdiction of Munsif, if this application was moved by the petitioners/defendants, the same could have been disposed of rightly by the learned trial court which bears no infirmity or illegality at all.

15. In view of the above, the impugned order dated 25th July, 2024 passed by learned Civil Judge (Senior Division)-I, Ranchi in MCA No.647 of 2024 arising out of Original Suit No.388 of 2023 needs no interference by this Court.
16. Accordingly, this civil miscellaneous petition is, hereby, dismissed.

(Subhash Chand, J.)

**Rohit
AFR**